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COMMITTEE ON THE ELIMINATION OF
DISCRIMINATION AGAINST WOMEN
(CEDAW)

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 18 OF THE CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN

Initial reports of States parties

INDIA

INTRODUCTION

1. The instrument of ratification of the Convention deposited by the Government of India, contained the following two Declaratory Statements and one Reservation:

2. Article 16(1) calls for the elimination of all discimination against women in matters relating to marriage and family relations. The Declaratory Statement in this connection reads as under:

> "With regard to Article 16 (1) of the Convention on the Elimination of All Forms of Discrimination Against Women, the Government of the Republic of India declares that it shall abide by and ensure these provisions in conformity with its policy of non-interference in the personal affairs of any community without its initiative and consent".

3. Article 16 (2) calls for making the registration of marriage in an official registry compulsory. The Declaratory Statement for this Article reads as under:-

> "With regard to Article 16 (2) of the Convention on the Elimination of All forms of Discrimination Against Women, the Government of the Republic of India declares that it agrees to the principle of compulsory registration of marriages. However, failure to get the marriage registered, will not invalidate the marriage particularly in India with its variety of customs, religions and level of literacy".

4. Article 29 (1) of the Convention establishes compulsory arbitration or adjudication by the International Court of Justice of disputes concerning interpretation. The reservation proposed by the Government of the Republic of India reads as under:-

> "With regard to Article 29 (1) of the Convention on the Elimination of All Forms of Discrimination Against Women, the Government of the Republic of India declares that it does not consider itself bound by paragraph 1 of this Article".

5. The Government of India hereby presents its first report as required under Article 18 of the Convention. The submission of this report has been preceded by widespread consultations throughout the country from 1993 to 1996

6. A total of over 20 meetings with a number of women's organizations were held during this period providing the Government and participants with considerable insight on a wide range of gender issues and issues relevant to Indian women. Further, one meeting was specifically held with NGOs and individual women interested in issues relating to women's rights in late 1994 to elicit views on how to go about preparing India's initial report. The present report takes into account the

discussions and conclusions of this long and widespread consultative process. Further, detailed discussions were held and written inputs received from various Ministries/Departments of the Government of India on different Articles of the Convention.

7. The report comprises two parts following the general guidelines adopted by the Committee on the Elimination of Discrimination against Women. The first part contains general information about India and the political, legal and constitutional framework in which the Convention is being implemented. The second part contains specific information with respect to each of the articles of the Convention in terms of steps being taken by Government, the constraints if any, and the future course of action contemplated by the Government.

8. There has been a growing demand for withdrawal of India's reservations/declaratory statements from women's groups throughout the country and the matter is under consideration. The Government's present policy of not interfering with the personal laws of minority communities except at their initiative and with their consent, has already resulted in a number of changes. For example the Hindu personal laws, Parsee personal laws and the Christian personal laws have been amended. The demand from women's groups is that the Government's policy should at least be modified to say that when ascertaining the views of the minority communities, the views of women of such communities would be specially taken into account. This is also under the consideration of the Government.

Part One

Basic General Information & Frame Work

General Information

9. India, attaining freedom in 1947, formed itself into a Democratic Republic, with a Parliamentary system, an independent judiciary and a detailed written Constitution. It is a Union of States, comprising 25 States and 7 Union Territories. It has a federal Constitutional system of governance with certain unitary features in which legislative, executive and judicial powers are shared between the Union and the States and Union Territories. Election to the Union Parliament and State Legislatures is held every five years on the basis of universal adult franchise. In India, women and men have had equal voting rights since the inception of the Republic.

10. Lying between 8.4 degrees North and 36.6 degrees North latitudes and 68.7 degrees East and 97.25 degrees East longitudes, India is the 7th largest nation in the world and with a population of 846.30 million in 1991 (presently estimated at over 970 million) it is the second most populous.

Constitutional and Legal Framework

11. The Constitution of India, which came into force on 26th January, 1950 operates as the fundamental law in India. All the organs of State owe their origin to the Constitution and derive their authority from and discharge their responsibilities within the framework of the Constitution. It deals with the structure and system of governance, makes detailed provisions regarding the fundamental rights of citizens and other persons and lays down certain broad Directive Principles which are to guide the different organs of State, the Legislature, the Executive and the Judiciary. It envisages a government which is federal in structure with unitary features. The President is the Constitutional head of the Union. It provides for a Council of Ministers which is collectively responsible to Parliament and is headed by a Prime Minister. The Constitution provides for an independent judiciary, an independent Comptroller and Auditor General, an independent Election Commission and independent Public Service Commission. It distributes legislative and executive

powers between Parliament and the State Legislatures and provides for the vesting of the residuary powers in Parliament. The system of government in the States closely resembles that of the Union. The State executive consists of the Governor and Council of Ministers with the Chief Minister at its head. Every State and some Union Territories have a Legislature with one or two Houses. A multi party system of electoral politics has been in existence since independence.

12. The Indian Constitution was drafted around the same time as the Universal Declaration of Human Rights and was therefore strongly influenced by the latter. The principle of gender equality is firmly established in our Constitution. It provides for equality before law and equal protection of the law, prohibition of discrimination, and equality of opportunity in matter of public employment. The Indian Constitution further provides for affirmative action and for positive discrimination by empowering the State to make special provisions for women. The Constitution also contains certain provisions, called Directive Principles, which enjoin upon the State inter alia to secure the right to adequate means of livelihood for both men and women equally; equal pay for equal work for both men and women: the health and strength of workers, for both men and women; and ensuring that the citizens are not forced by economic necessity to enter vocations unsuited to their age and strength. Further a duty is cast on every citizen of India to renounce practices derogatory to the dignity of women.

13. While the Fundamental Rights enshrined in the Constitution are justiciable, the Directive Principles of the Policy are considered in general non-justiciable in terms of recourse to judicial remedies. The Supreme Court of India however through its activist role has infused dynamism even into the non-justiciable provisions and has issued directives to the State from time to time to implement the Directive Principles. In a recent judgement the Supreme Court made it clear that the State or any of its organs could not do anything that violates these principles and some of the principles have already become law. The Maternity Benefits Act and the reservations for women in institutions of local governance are two relevant examples. Further, according to the Supreme Court, some directive Principles like the one on compulsory education, with the lapse of time provided by the Constitution have now to be viewed as a fundamental right. While the Supreme Court and the High Court and lower courts administer justice in the country according to the various laws of the land, the Supreme Court of India has over the years developed a strong tradition of public interest litigation (PIL). According to the Supreme Court's explanation, this is a system whereby in the event of the violation of rights of any person or class of persons by omission or commission and such persons being unable to approach the court (by reason of poverty, disability, social or economic disadvantage), any member of the public can maintain an application for an appropriate direction, order or writ. This has further enriched India's elaborate legal edifice and contributed to the cause of gender justice. Recent pronouncements of the Supreme Court on such matters as the need for a Uniform Civil Code for all women irrespective of religion, the need for equal property rights for women particularly in case of inheritance, pronouncements on child labour, child prostitution, sexual harassment at place of work, need for in-camera trial of rape cases etc. are evidence of such an

activist role of the Court. The Supreme Court has also in a number of judgments struck down some unequal provisions of certain personal laws by declaring them as ultra vires to the Constitution of India (For example 14 laws governing Christians in Kerala were struck down).

14. To uphold the Constitutional mandate, the State has enacted various legislative measures intended to ensure equal rights, to counter social discrimination, prevent various forms of violence and to provide support services especially to working women. Amendments have been periodically carried out to keep pace with emerging demands.

15. Translating de-jure gender equality and the promise of justice, social, economic and political, into de facto reality has been one of India's major challenges over the years. There is still unfortunately a wide gap between the goals enunciated in the Constitution, legislation and policies and the current status of Indian women. In order to bridge this gap and to ensure that legal safeguards actually reach women, the Government has set up a statutory National Commission for Women in 1992 charged with the responsibility of overseeing the working of constitutional safeguards for women, reviewing laws and regulations where necessary in this regard and intervening in selected individual cases of violation of women's rights and equality for issuing appropriate directives to the concerned authorities. It has been made mandatory for the Government of India and the Governments of States to report to Parliament its follow-up action on the recommendations of the Commission, and submit specific reasons in the event of disagreement with any of the Commission's recommendations.

The Economic Framework

16. India, since independence in 1947 has followed a mixed economy where the public sector and the private sector co-existed. The public sector, till recently, dominated the core sectors of the economy, viz. the heavy industries, power and infrastructure, banking and insurance, mining of major minerals etc. The market however also always played an important part subject to overall State regulation. Further, the economy, till recently, had an inward orientation as India pursued the goal of self-reliance and import substitution. The goal of establishing a socialistic pattern of society resulted in a system of bureaucratic controls over industry with elaborate licensing requirements and procedures, tariffs, foreign exchange regulations, import restriction, wide scale deficit financing, etc.

17. Since 1991, India has embarked upon a course of restructuring its macro-economic policy framework. The roots of this new growth paradigm can be traced to the eighties but it was the balance of payments crisis of 1991 that marked the decisive turning. The new economic policies consist of macro-economic stabilization processes aimed at restoring greater fiscal discipline and efficiency, deregulation and de-licensing policies aimed at propelling industrial growth, and structural adjustment processes aimed at opening of the economy leading to greater competitiveness

of Indian industry and greater infusion of foreign capital both in industry as well as in the capital markets. The sum total of these processes is to place greater reliance on the market with least controls, liberalise investment procedures and make the economy globaly integrated. The process of liberalisation and de-regulation is now well under way and it has given significant fillip to the rate of economic growth.

18. India is emerging as a major market, foreign investment is growing, the foreign exchange reserves are high and the rate of inflation under control. Foodgrains production has attained an all-time high and the Indian middle class is growing in size. At the same time, these adjustment processes also hold out considerable challenges for the country, particularly for vulnerable groups, such as poor women, whose interests the market seldom reflects, whose contribution to the economy is generally invisible and often in the domestic sphere. The Government of India has, therefore, made special efforts to increase its support for social sectors and started a number of schemes aimed at the poor, particularly poor women and women in the informal sector.

19. Agriculture is the largest sector in the Indian economy continues to be Agriculture and is the major field of women's employment.. It contributes 30% of the total GNP and accounts for 60% of the employment. The percentage of rural population has merely dropped from 82.7% in 1951 to 74.3% in 1991. Of the women workers, 34.55% are cultivators, 43.56% agricultural labour and 4.63% engaged in livestock, fishery and forestry etc. Of the marginal workers, 47.91% are cultivators, 41.43% are agricultural labourers and 1.69% are engaged in livestock etc. The rest are in the non-Agricultural sector.

Overview of Women's Status

Population

20. The 1991 census counted 407.1 million females against the male population of 439.23 million constituting just less than half (48.09%) of the total population of India (846.30 million). The female population grew at a slower pace of 23.37% during the decade 1981-91 against a decadal growth rate of 23.85% of the total population.

21. The sex-ratio which was 972 females per 1000 males in 1901 has declined to 927 in 1991 after a slightly upward trend in 1981. There is however considerable inter-state variation in the sex ratio. It favours females in Himachal Pradesh (1070), Kerala (1068) and Goa (1019), is exactly even in Tamil Nadu (1000), and at the lower end is as adverse as 824 in Delhi, 880 in Rajasthan and 888 in Haryana. This adverse sex ratio and its decline in all age groups right from childhood through child bearing ages, has emerged as a matter of concern in India. While preference for sons, intra household gender discrimination and denial and limited access to health care can perhaps explain this trend, the bridging of gender gaps in infant mortality rates, the increase in life expectation at

birth (which is now higher for women than for men) are factors that should have led to a reversal of the trend. More analysis on the subject is currently underway. In the meantime, India has framed legislation banning the use of pre-natal diagnostic techniques for sex determination. Efforts are currently on to draw up a Master Plan of Action to tackle the problems of violence against girl children, particularly through infanticide, sex selection, and trafficking.

22. The current demographic structure shows a predominantly young Indian population:

	Male	**Female**
0 -14 years	36.5%	35.9%
15-59 years	57.8%	57.8%
60 + years	5.7%	6.3%

23. According to the Working group on Population Estimates, projections for the next 20 years are rather disturbing, especially in 0-4 age and 5-9 age groups. The sex ratio is likely to get adverse in many states including Kerala.

Life Expectancy & Mortality

24. The expectancy of life at birth has improved considerably and mortality for almost all ages has declined sharply. Life expectancy of females which was 23.96 years at the beginning of the century is now 58.1 years (higher than that of males at 57.7 years). The seven decade long gender gap in improving life expectancy has finally been corrected in the last two decades.

25. India has one of the largest primary health care system in the world. India runs the world's largest Integrated Child Development Programmes (ICDS). As a result of this and other interventions, including household food security, there has been a sharp decline in the mortality/death rates amongst female children in the 0-4 age group from 55.1 in 1970 to 28.2 in 1992. The IMR for females has fallen from 131 in 1978 to 80 in 1992 and for males from 123 to 89 during the same reference period. The IMR has had another sharp fall to 74 in 1993.

Age at Marriage

26. It is estimated that in India more than 90% of women are married at the age of 25-29 years (1992 figures). About 30% females were married off while still in their teens (15-19 years). However, the mean age at effective marriage for females has risen from 18.3 in 1981 to 19.5 in 1992. The Child Marriage Restraint Act has raised the minimum age of marriage of girls to 18 years and boys to 21 years.

Fertility

27. One of the major problems facing India is its large population and persistent high rates of growth. The population has been growing at around 2% or more per annum since 1961. The age specific fertility rates declined for women in all age groups between 1981 and 1991, but not uniformly. The decline was small for the peak fertility years 20-29.

Literacy

28. Although female literacy has gone up 5 times since 1951, it still represents an area of major concern. It now stands at 39.29% only as opposed to male literacy which is almost 64%. Within the country wide variations exist. While Kerala has near universal literacy, female literacy in Rajasthan is only 20.8%.

29. Similarly although girl's enrolment in schools has increased greatly and consistently at all levels, the rising rates of drop-outs continues to be the major problem. Thus, while gross enrolment ratio for girls at the primary level is almost 85% (vis-a-vis over* 100% for boys) even in 1993-94 over one-third (39%) of the number of girls enrolling at the primary stage dropped out before completing primary level, and about 57% dropped-out before completing upper primary levels. Ultimately, only 32% of girls entering the primary stage complete schooling.

Employment

30. Women are mostly found in marginal and casual employment and that also mostly in agriculture and the growing informal sector. According to Census data the work participation rate (proportion of employed or total workers to population in economically active age group) of females declined up to 1971 and then rose steadily from 14.22% in 1971 to 22.27% in 1991. During the 1991 Census, conscious efforts were made to count women workers more completely and remove their invisibility. Of the total 22.27% female work participation, main workers contributed 16.03% and marginal workers 6.24%. Women constitute 90% of the total marginal workers of the country. There are wide regional variations in work participation rates within the country from 4% to 34%.

31. Women's employment in the organized sector though only 1/6th that of men, is now around 14.6% of the total employment. 62% of such organized sector employment of women are in the public sector. Of the total employment of women, the organized sector employment only forms 4%.

Statistical Overview of Women's Status

32. The following provides a statistical overview of women's status:

Population	846 million
Female	407 million
Male	439 million
Sex Ratio	927 females per 1000 males
Female Life Expectancy at Birth	58.1 yrs.
Male Life Expectancy at Birth	57.7 yrs.
Annual Population Growth	2%
Infant Mortality Rate (Female)	80 per 1000
Infant Mortality Rate (Male)	79 per 1000
Literacy Rate (Female)	39.19%
Literacy Rate (Male)	64.13%
Gross Enrolment Ratio (Female)	92.9%
Gross Enrolment Ratio (Male)	115.3%
Drop-out rates (Female)	
Primary level	39.1%
Middle Level	56.8%
Drop-out rates (male)	
Primary level	36.1%
Middle level	50.0%
Work Participation Rate (Female)	22.27%
Work Participation Rate (Male)	51.6%

*(The reason for the figure being above 100% is that they include over-age children i.e., children who are above the primary school age group)

Machinery for Women's Advancement

33. In India the national machinery for women's advancement is visualised as a set of structures and systems at the centre of which lies the Department of Women & Child Development under the overall charge of a Cabinet Minister who is accountable to Parliament. Today the term national machinery has a broad connotation and includes all structures and mechanisms which support the cause of women, whether formally recognised and demarcated or not. In addition, there is the

National Commission for Women which acts as a statutory ombudsperson for women whose annual report containing recommendations is to be placed in Parliament by the Government of India with a detailed compliance report and in the absence of compliance, the reasons thereof. There is also the Central Social Welfare Board to network with NGOs working for women welfare in the country. At the State level there are the State Departments of Women & Child Development and the State Commissions for Women which also form part of this set of institutional systems.

34. In India the evolution, modification, renewal and growth of institutional structures for women have come about as responses to emerging perspective on women's issues through close interaction with the women's movement. As development planning for women has straddled principes spanning welfare, development, equity, efficiency and empowerment, so has the institutional structure for women. While in the past, women were perceived as persons in need of "welfare doles", today "women's empowerment" which regards women as active agents participating in and guiding their own development is widely accepted.

35. India has a strong federal system and the subject of women's development comes under the jurisdiction of both the Central and State Governments. With the recent 73rd and the 74th Constitutional Amendments relating to decentralization and the major responsibility for social sector development being devolved to local governments (Panchayats, Municipalities and Municipal Corporations) the institutions of local governments also have become important components of institutional mechanisms for the advancement of women.

36. The women's movement has been a major force in India in contributing to the evolutionary process of social development in general, and to women's development in particular. Interaction of the Government with the movement, with voluntary organizations and with social activists has been an abiding feature of India's quest for women's empowerment.

37. The Planning Commission provides the main planning thrust for mainstreaming women's development across sectors.

DEVELOPMENT OF WOMEN THROUGH FIVE YEAR PLANS

38. The approach to women's development in the First Five Year Plan (1951-56) was not clear. The women's question was perceived as primarily a social one by the major section of the political leadership and the bureaucracy and the role of the State in 'social' issues was viewed with great hesitation and caution. Significantly, issues identified by the National Planning Committee's Sub-Committee on Women ("Women in a planned Economy" 1941) were not considered by the official planners till a decade later. Instead women were projected as beings in need of education, health and welfare services only.

39. However, the Central Social Welfare Board (CSWB), set-up in 1953 identified the problem of absence of any governmental machinery at most levels for welfare related activities and undertook to promote a number of welfare measures through voluntary organizations, encouraging women's organizations to take up such activities in partnership with government. Promotion of organizations of women at various levels, especially at the grassroots, was at the heart of this strategy. Mahila Mandals were promoted as 'delivery mechanisms' for essential services like education, health, especially maternal and child health etc. both by the CSWB and the Community Development Programme through the first and the second Five Year Plans.

40. This combination of institution building and human resource development was also expected to prepare women to participate in the political and developmental processes. Thus, though the language of these strategies reflected contemporary meaning of 'welfare', there was a conceptual thrust (even though inadequately articulated) towards actively involving and stimulating the participation of women's organizations in the processes of change. However, increasing bureaucratic control, top-down designing and streamlining of programmes and declining resource support to organizational and institutional development from below both reflected and contributed to the low priority and non-serious approach to basic issues in promotion of gender equality.

41. The Third, Fourth and Fifth Plans, including the four years of Plan holiday before the Fifth Plan continued the same approach, with declining support to the strategies of organization building and human resource development. Some priority was accorded to women's education after the Report of the National Committee on Women's Education (1958-59). Planners, however failed to address the major problems of poverty, illiteracy, non-enrollment, dropout etc. that affected the large majority of girls and women. From the Third Plan onwards, the issue of population control acquired increasing priority. Family Planning services were introduced within the health services, but very quickly and increasingly dominated the health services, with separate allocations and staff. Repeated directives from the Planning Commission, from the 4th Plan onwards to integrate Family Planning with MCH were not implemented. Programmes for supplementary nutrition of children and nursing and expectant mothers from disadvantaged groups were introduced by the Welfare department but received far less priority and resources and no integration with MCH.

The CSWI'S Critique (1974-77)

42. These approaches came-in for criticism in the report of the Committee on the Status of Women in India (CSWI, 1971-74).

43. The pre-independence planning document had addressed women's economic, civil and social rights. However, despite the provisions of the Directive Principles of State Policy, economic rights and needs were not really built into the first five plans. Labour laws, valid only for the organized secondary sector, had incorporated most of the ILO Conventions before planning started. Maternity

benefits were enacted in 1961, but not equal remuneration .While, both these principles were incorporated into public service rules (with a few exceptions), child care support for women was not included. Service rules were the responsibility of the Home Ministry, labour laws of the Labour Ministry. Some sectors of government (eg. Railways, Defence Services, Insurance, Mining) continued discriminatory and exclusionary practices against women because there was no comprehensive policy or law applicable to all categories of women workers. On the other hand, the growing emphasis on population control highlighted women's reproductive, rather than their productive roles, influencing a 'populationist' approach to women's development needs.

44. The Committee pointed out that Plans for development of agriculture, industry, fishery, livestock etc. and other major sectors of the Indian economy contained no acknowledgment of the millions of women involved in these sectors for a livelihood. In fact women had been increasingly viewed by the planners as not in need of an independent livelihood, to the point where women's decreasing work participation rate and share of employment, increasing poverty and insecurity in sectors of the economy in which they used to dominate earlier (agriculture, forestry, livestock, cottage industry, sericulture, fisheries, retail) were not even viewed as unfortunate problems of change. This process of marginalisation of the large majority of women in the economy and their consequent neglect and devaluation by the society and the State, were demonstrations of gender, class and urban bias.

45. Treating the declining sex ratio as a composite indicator of the worsening situation of the majority of women, the Committee demonstrated that this process, begun much earlier, had been accelerated during the period of planned development. The increasing investment on education, health and the opening of opportunities for public employment had benefited a small minority, widening the gap between this minority and the majority of women. Even amongst the privileged minority, the promise of gender equality was threatened by escalation of social practices like dowry, continued inequality in personal laws (including Hindu Law which had been 'reformed' after independence), non-enforcement of existing laws, which sought to offer some protection to women (e.g. labour laws or criminal law), and the 'invisibility' of women's needs, concerns and perspectives in the planning process.

Conceptual Advance and the Politics of Planning Women's Development (1977-80)

46. It was only between 1977 and 1980 that some serious exercises in policy review were taken up. Amongst these, the three most significant exercises were the Report of the Working Group on Employment of Women, 1977-78; Report of the Working Group on Development of Village Level Organizations of Rural Women, 1977-78, Report of the Working Group on Adult Education Programmes for Women, 1977-78 and Report of the National Committee on the Role and Participation of Women in Agriculture and Rural Development, 1979-80.

47. These exercises definitely marked a watershed in conceptualizing basic problems and strategies for women's development in India. In fact, the Indian agenda even got incorporated into the United Nations mid-Decade Programme of Action-through the mediacy of the Non-aligned Movement at the special Conference on Women and Development (Baghdad, 1979); and India's Membership of the Commission on the Status of women (1978-80) as well as the Preparatory Committee for the Mid-Decade Copenhagen Conference (1980) and Programme of Action. The Secretary General of the Mid-Decade UN Conference acknowledged India's contribution to the emphasis on third world perspectives on development and the adoption of employment, health and education as a sub-theme of the decade's agenda.

48. The conceptual approach evolved through these few years identified women's developmental needs as having multiple dimensions - cutting across economic, social and political sectors - requiring explicit examination of women's situation in various sectors (agriculture and allied fields, industry, labour and employment, power, environment, energy, science and technology as well as the social and infrastructural sectors. Such explicit examination called for three operational strategies:

a) of establishing cells within various sectoral development/planning agencies at different levels;

b) earmarking of a share of various sectoral allocations for investment in women rather than relegate women to only women-specific programmes and women-specific agencies; and

c) promoting rural employment and development through women's own collective organizations, at the grassroots (Spontaneous indigenous models of such organisations had already emerged through the work of SEWA, WWF, Annapoorna Mahila Mandal and the economic, social and political dynamism they displayed offered hopes of empowerment for others elsewhere.)

49. The Sixth Five Year Plan (1979-84) document released in December 1979 contained definite admission of failure to remove disparity and injustice in both social and economic life. It also stated that the objective of population control could not be achieved without bringing about major changes in the status of women. Including women within the chapters on employment, manpower and rural development this document made a definite departure from earlier plans where women had been mentioned only in the chapters on social services. In suggesting the need for "administrative innovation" and "collection of sex-wise distribution data on development assistance", the plan acknowledged the previous neglect, the need for better information flow and new mechanisms to ensure women receive their "due share" of government's attention and support, and "equal opportunity for growth and distributive justice". Support for organizations of rural women was suggested on the same principles as organizations of the rural poor - to improve their "bargaining power and access to development assistance".

50. This conceptual advance however was not matched by prescriptive measures. With a change of government in 1980, this document became inoperative. A new Planning Commission was appointed. It however remains significant as a stepping stone to later stages of women's development - from 1980 to 1995.

The Sixth Five Year Plan (1980-85) : Pressure from the Women's Movement

51. The Framework for the 6th Plan, released by the new Planning Commission in August 1980 reverted women back to the social services and did not reflect any of the home work undertaken by various official expert groups between 1975-80. Nor did it reflect approaches and the perspective advocated by Indian delegations to international conferences of the UN or the Non-aligned Movement.

52. It was from this point that intervention by national women's organizations began to make some impact on the planning process. It began a period of partnership and alliance between the few cells on women created within the Ministries of Labour and Employment, Social Welfare and Rural Development, and the growing women's movement and scholars specialising in women's studies. A memorandum submitted jointly by seven women's organizations in 1980 and support from women members of Parliament persuaded the Planning Commission to incorporate for the first time in India's planning history a chapter on Women and Development.

53. This Chapter acknowledged the continued low status of women as a result of inadequate opportunities of 'independent employment and income', referred to demographic trends (higher mortality, lower economic participation, literacy, sex-ratio etc.) as issues of serious concern and went on to define a multipronged but inter-dependent strategy for women's development which by its very nature 'would be dependent on the total development process'. Emphasis on the 'family centered' poverty alleviation strategy, (which invited attacks from WID scholars through the 80s) was qualified by the statement that "economic independence would accelerate improvement of women's status".

54. A marked improvement in the redistributive policies of government was the promise that in cases of transferred assets such as agricultural and homestead land, government shall endeavour to provide joint title to husband and wife.

55. Strengthening of voluntary organizations of women at the grassroots was advocated " for creating a proper climate for the introduction of social legislation as well as for its effective implementation and the provision of legal aid ". Such grassroots organizations were also necessary "as channels for women to participate effectively in decisions that affect their lives and for

promoting adequate development efforts for women at different levels ". There were definite suggestions for active promotion of such collectives by the government and linking them with institutions which could provide support in various forms.

56. For education the emphasis was on special support services to expand women's access to all types of education. The need for child care services as a support for education of girls as well as for working mothers of different classes was acknowledged, and public services requested to provide them for their women colleagues. However, the Labour Ministry's innovative plans for a National Programme for Child Care and Maternity Benefit in partnership between the government and all other employers (which had received verbal support of national trade unions and women's organizations in 1979) were not taken up.

57. The institution of a women's quota and the formula of one-third made its appearance within the TRYSEM programme. There was a general statement that it would be better to expand co-educational institutions rather than promote separate women's polytechnics. Similarly, instead of relegating women's employment to some women-prone sectors, the Sixth Plan proposed "corrective measures" in sectors where 'women's employment is low or on the decline'.

The Seventh Five Year Plan (1985-90)

58. With the twin emphases on employment and productivity in the Seventh Plan the Approach paper highlighted the strategy of a direct attack on the problems of poverty, unemployment and regional imbalances with " accelerated development of human resources". There was greater emphasis on the provision of gainful employment to the unemployed - particularly women and youth. The strategy of organising women around socio-economic activities was reiterated, for the twin objectives of making their projects economically viable and adding to their social strength for overall enhancement of their status.

59. The Chapter of the Actual Plan document demonstrated some advance in the use of feminist language (the role of "the predominant order in confining women in an oppressive environment"); a substantive acknowledgment of women's important role in agriculture and allied sectors and the existence of a gap between the actual social reality and its perception by society at large. However, in identifying concrete strategies there was a tendency to slide back into women-specific sectors and a refusal to extend the quota or the special component plan approach.

60. Outside the government also, women's organizations and scholars were reviewing the changes since 1980, and pooling their ideas and demands to place before the government. Preparations were on for the end of the decade UN Conference at Nairobi. The Government of India hosted the 2nd NAM Conference on Women and Development to offer inputs to the Nairobi meet. In 1984, in an ILO-sponsored Afro-Asian Conference on Rural Women's Organizations and

Development, India's approaches and experiments - official and non-official - had received encouraging appreciation from both Asian and African participants. The report, titled `Women, Resources and Power' contained many of the lessons of possible generation of employment, reduction of poverty, education, improvement of productivity and women's empowerment through the strategy of increased investment in collective organizations of poor rural women, building on their existing expertise and skills at the initial stage.

61. These background events, encouraged the Departments of Rural Development and Women & Child Development, and the Ministry of Labour and Employment to adopt some bold measures. They represented greater clarity and commitment on the part of those ministries/departments which had undertaken some serious rethinking, information gathering and investment efforts in their expectation of a distinct change in political priorities.

62. Despite the Plan document not adopting the "special component" or the quota approach - the Department of Rural Development announced a 30% quota for women in all anti-poverty programmes for the rural areas, in addition to the women - specific experimental programme (Development of Women and Children in Rural Areas) introduced midway through the 6th Plan. Concurrent evaluation of all these programmes by independent research institutions began a periodic monitoring and regular reporting to Parliament of progress of achievement in the women's quota. Steps were initiated to begin gender sensitisation as a mandatory part of training of rural development officials.

63. A special Task Force appointed by the Department of Rural Development recommended that such mandatory inclusion of gender sensitization was necessary for all training of public servants of all categories. This recommendation - supported by the Departments of Rural Development and Women and Child Development - evoked a positive response from the Department of Personnel and Training.

64. Another thrust, emerging from some experimental training programmes sponsored by the Departments of Rural Development and Women and Child Development was an attempt to make organization of beneficiaries a central and common element in all programmes targeting poor women. Innovative, flexible programmes with this aim were introduced by the Department of Women and Child Development and the Ministry of Labour.

65. A final attempt by the Department of Rural Development, to introduce the 'special component' approach by earmarking 30% of the allocations for anti-poverty programmes - to match the 30% quota of beneficiaries, however, ran into resistance. This decision had to wait till the 8th Five Year Plan.

66. The new government had also converted the Division for Women's Welfare and

Development, till then a part of the Ministry of Social Welfare; into a full Department of Women and Child Development and transferred it to the Ministry of Human Resource Development along with the Departments of Education, Culture, Sports and Youth Affairs.

67. The preparation for a new Educational Policy marked another occasion for gender advocacy. Women's organizations and women's studies groups mounted a systematic pressure from outside. They enrolled persons interested in educational reform - even the University Grants Commission - to lobby for a new role for educational institutions - as conscious promoters of the value of gender equality. To play this role effectively, teachers, students and educational administrators needed greater exposure and involvement in women's struggles to change their marginalised, subordinate and oppressed status - which could eventually change their perceptions and views about women's actual roles, contributions, burdens and oppression. This mental transformation could make conventional instruments like curriculum change, research and training powerful ideological tools to alter the mindsets of future generations.

68. A year's efforts - through pressures from the women's movement and internal struggle within government - resulted in the incorporation of two paragraphs on Education for Women's Equality within the National Policy on Education. For the first time it carried the message that along with expanding women's access to all kinds of education, the system, with all its institutions, had to shoulder a major responsibility for genuine empowerment of women, by changing the social construction of gender. Conceptually, it was a breakthrough.

69. Another breakthrough was on the issue of effective representation of women in Panchayati Raj institutions. Government of India's decision to prepare a National Perspective Plan (NPP) for women began a flurry of activities under the aegis of the Department of Women and Child Development. A parallel move was the appointment of the National Commission for Self-Employed Women (NCSEW) - to help articulate the problems, needs and aspirations of working women in the informal sector - many of them still missing in national statistics of workers and economic activity.

70. The NPP (1988) wanted increase in women's participation and presence at decision-making levels - in local self-government bodies, state assemblies and Parliament. Suggesting a 30% reservation at all these levels, NPP proposed that the seats may have to be filled by nomination in the early years.

Eighth Five Year Plan (1992-97)

71. The Eighth Plan was formulated against the backdrop of the New Economic policy which brought about a process of macro economic stabilization and structural adjustment processes. The new features of the section on Women's Development are a paragraph on violence against women and a two-page "Situational Analysis" - which highlights the problems of higher mortality, lower

education and increasing unemployment of women, "the conceptual, methodological and perception" biases regarding value of women's work, compounded by women's concentration in the informal sector, resulting in casualisation, non-protection of labour laws and inaccessibility to credit, technology and other types of development assistance.

72. The strategy in the Eighth Plan was to "ensure that the benefits of development from different sectors do not bypass women and special programmes are implemented to complement the general programmes". The strategy of formation and strengthening of grassroots organizations to "articulate local women's needs and play an important role in decentralized planning and implementation" was reiterated. Convergence and integration of services offered by health, education, employment and welfare programmes at the grassroots level was emphasized.

73. There was a paragraph on the girl child with the promise of 'special programmes'.

74. Education and nutrition, legal literacy and "changes in societal attitudes and perceptions in regard to the role of women" were mentioned as essential for 'empowerment'.

75. However, women were mentioned only in the context of women specific programmes. There was no mention of a women's quota or a earmarked share of allocations.

76. The most dramatic development during this period was the passing of the 73rd and 74th (Constitutional) Amendments in 1992 which conferred constitutional status on the institutions of local governance , mandated regular elections and wider powers/resources, and reserved 1/3 of seats for women, including among the already reserved categories of SCs/STs and office-bearers at different levels of these bodies. States which have held elections since 1993 experienced no difficulty in obtaining women's response, as voters and as candidates.

77. In the General Elections of 1996 - most political parties conceded women's demand for reservation at state and national levels also. The new government placed this in the Common Minimum Programme. A Bill reserving 1/3 of seats in Parliament and State legislature for women is currently before Parliament.

Approach Paper to the Ninth Plan (1997-2002)

78. The Approach Paper to the Ninth Plan which was made public in January 1997 marked another watershed in the history of Indian Planning. It declared the Empowerment of Women as one of the objectives of the Plan and the transfer of control of social infrastructure in the public sphere to women's groups as a strategy of the Plan. The Approach Paper calls for a women's component plan as a part of the plan of each sector to identify the flow of benefits to and impact of plans and programmes on women. It calls for reliance on women's self help groups as a strategy. It declares

the flow of benefits to women and children as one of the fundamental criteria for determination of allocation priorities. At the time of submission of this report, work on the preparation of the detailed Plan proposals is underway. A unique feature this time is the process of consultations in which hundreds of grass roots women's organizations are discussing the Approach Paper and formulating suggestions which would help realize the objective of women's empowerment laid down by the Approach Paper. These groups are interacting closely with the Planning Commission and the Ministries at the time of writing this report in an effort to engender the Ninth Plan. This process of mobilization and consultation is a continuation of the process that was started prior to the Beijing conference.

Part Two

Article 1 and Article 2

79. Article 14 of the Constitution of India ensures to Women the right to equality and Article 15(1) specifically prohibit discrimination on the basis of sex. Article 16 of the Constitution provides for equality of opportunity to all, in matters relating to public employment or appointment to any office and specifically forbids discrimination inter-alia on the ground of sex. These articles are all justiciable and form the basis of our legal-constitutional edifice. At the same time the Constitution of India (Article 15(3) provides for affirmative and positive action in favour of women by empowering the state to make special provisions for them.

80. The Directive Principles of State Policy of the Constitution also impose upon the state various obligations to secure equality and eliminate discrimination. These Directive Principles contained in Part IV of the Indian Constitution enjoin upon the state inter alia to direct its policy towards securing the rights to adequate means of livelihood for both men and women equally; equal pay for equal work for both men and women; ensuring that the health and strength of workers, men and women, are not abused and the citizens are not forced by economic necessity to enter avocations unsuited to their age and strength. Further, a duty is cast on every citizen of India to renounce practices derogatory to the dignity of women.

81. As explained in the previous chapter, although these principles are strictly not justiciable, the Supreme Court of India, through its judicial activism, has infused dynamism into these non-justiciable provisions and issued directions to the state to implement them. Three important areas in which the Supreme has of late issued directives, refer to the need for a uniform Civil Code for the entire country, the promise of compusory education made in the Constitution but not realized and the protection of property rights of women. These have important implications for the personal laws of various minority communities in respect of marriage and property and for government's educational policy. These pronouncements have led to important debates within the country on the need to bridge the gap between the promise of de-jure equality and elimination of discrimination guaranteed by the Constitution and the de-facto situation by inter-alia continuing the process of review of laws including personal laws.

Article 3

82. As mentioned earlier, the elimination of gender based discriminations is one of the fundamentals of the constitutional edifice of India. In fact the Constitution empowers the State to adopt measures of positive discrimination in favour of women for neutralizing the cumulative discriminations and deprivations which women face. Further as explained earlier, the four basic provisions of the Constitution viz. the Fundamental Rights relating to the provisions on equal rights and opportunities of men and women in political, economic and social spheres, the prohibition of discrimination on ground of religion, race, caste, sex etc., the provision enabling the State to take affirmative action in favour of women and the equality of opportunities in public employment for men and women are themselves justiciable claims and can be redressed through the writ jurisdiction of the High Courts and the Supreme Court of India.

83. The right of equality is a fundamental one. However, the institutional forces arraigned against it are equally powerful and exert control and shape people's mindsets. Factors like caste, class, community, religion, locality, family, occupation all combine to affect women and men alike, making them accept gender inequality as some thing given without the need for questioning.

84. The struggle for legal equality has also been one of the major concerns of the women's movement in the country. In parental and matrimonial homes, for acquiring education and skills and in profession, legal rights are critical for women. The first phase of the movement for women's equality centered around three major problems they faced : child marriage, enforced widowhood and property rights. The second movement was linked to the freedom struggle and the debate that followed the Indian Constitution. It focussed on the Hindu Code Bill and emphasized that women were not being accepted as equal of men. Discrimination could only be effectively reduced, if not eliminated, by passing appropriate laws and evolving an effective machinery to implement these laws.

85. The State has also enacted various laws to realize the Constitutional mandate a society where there will be no discrimination or inequality. Amendments are periodically carried out to keep pace with emerging demands.

86. In fact the large participation of women in India's freedom struggle, paved the way for some very progressive legislation right from the dawn of independence. Several important legislation were passed during the early years to ensure equal
rights to women, particularly Hindu women. These related to the age of marriage, monogamy, equal property rights for men and women, giving women the right to adopt a child and making the consent of the wife compulsory for the adoption of a child by a married man (Hindu Marriage Act, 1955, Hindu Succession Act, 1956 etc. Hindu Adoption and Maintenance Act, 1956)

87. Some time back the personal laws of the Parsi Community have also been amended to grant equal rights to women (Parsi Marriage and Divorce (Amendment) Act, 1986 and Indian Succession Act, 1925).

88. The Hindu Personal Law and Christian Personal Law, have been overhauled to give women greater rights regarding inheritance, adoption and divorce. Monogamy has also been made mandatory. However, personal laws of some minorities and other communities have remained unchanged on the basis of a policy that the demand for such changes must come from within the communities themselves before the State can intervene.

89. To ensure that these legal safeguards actually reach women, the government has enacted the National Commission for Women Act 1990, as an Act of Parliament, creating a statutory National Commission to oversee the working of constitutional and legal safeguards for women, to take up individual cases of violation on a selective basis and reviewing laws and rules to ensure that they don't discriminate against women in any way. The Act makes it mandatory for the government to place the annual reports containing recommendations of the Commission in Parliament with an "action- taken" report and reasons for not taking action on recommendations if any.

90. Several parallel and independent efforts are also in progress in the country to gender sensitize laws relating to land, tenancy and property, sexual harassment at the work place, labour laws etc.

91. Several States of India have set up similar State Commissions for Women to act as ombudsmen for women in the States. Till the time of preparing this report a total of 9 States have set up State Commissions, in addition to the National Commission.

92. Recently, as part of the follow up to the 4th World Conference on Women, the Government of India has drawn up a Draft National Policy for the Empowerment of Women which is a policy statement outlining the legal, institutional and programmatic response of the State to problems of gender discrimination. This policy, which is currently awaiting formalization and approval inter alia makes the review of laws including personal laws a policy mandate.

93. Almost every campaign against gender based violence on women in the 1980s resulted in a new legislation providing protection to them. Each enactment resulted in making the punishment provisions more stringent, setting time limits for pending cases and extending compensation to the victims. Violence in its different dimensions has been sought to be tackled by legislative reforms, innovations in the structure and working of the police force, measures to sensitise the bureaucracy, media campaigns and new institutional structures.

94. The amendment of rape laws in 1983 was the result of a sustained campaign against the provisions of the Indian Penal Code following the Supreme Court verdict in the Mathura Rape Case. It was significant, being a major response of the Government on the point of legislation, to the

women's movement and established the notion of custodial rape as a new concept of jurisprudence and shifted the burden of proof to the accused person if sexual assault is established. There were also important amendments made in the Indian Evidence Act and the Criminal Procedure Code.

95. The condition of the workers in the unorganized sector is a matter of great concern. Despite India having ratified International Conventions such as are embodied by ILO and having laws such as the Minimum Wages Act, The Contract Labour Act, the Equal Remuneration Act etc., their poor implementation and enforcement has prevented the women from benefitting from the legal safeguards.

96. At a Public Enquiry on "Women in the Unorganized Sector" conducted by the National Commission for Women in 1994, the legal bench realized the need for new mechanisms to overcome these barriers. For instance, in the case of construction workers, the Bench recommended the setting up of a Tripartite Construction Labour Board consisting of representatives of Government, employers and workers to ensure the enforcement of these laws.

97. A large number of women have not been able to fully avail the benefits under the Constitution and other legal provisions. There are several deterrents in the way of women seeking legal redress. Insufficiency of legal aid, procedural lacunae and delays, lack of basic knowledge about the law and procedures and long drawn out trials continue to hamper women's access to legal redress.

98. The need to secure equal access to legal services regardless of financial capacity or gender has exercised the Government for a long time. Several analyses and reports of the Law Commission make this clear. The importance of legal literacy has also been emphasized in the evaluation of the Total Literacy Campaign taken up by an expert group.

99. Legal aid was started in 1970 and a Commission for implementing legal aid services was set up in 1979 along with legal aid structures at the State and District level all over the country. The Legal Services Authorities Act, 1987, created structures for aid to specific categories entitled to free legal aid, including women.

100. The Family Courts Act, 1984, was meant to expedite cases as well as to do away with cumbersome legal procedures. Lok Adalat or People's Court that dispense speedy and affordable justice have worked well. Experience of legal aid, however, varies from State to State.

101. India also has a strong tradition of Public Interest Litigation (PIL). According to the Supreme Court explanation, "where legal wrong or legal injury is caused to a person or to a determinate class of persons by reason of violation of any Constitutional or legal right or any burden is imposed in contravention of any Constitutional or legal provision or when authority of law or any such legal wrong or legal injury or legal burden is threatened and such person or determinate class of persons

is by reason of poverty, disability or socially or economically disadvantaged position, unable to approach the Court for any relief, any member of the public can maintain an application for an appropriate direction, order or writ". This has resulted in a new investigative thrust for the courts and has led to increased executive accountability.

102. Legal literacy or para-legal training, again is of paramount importance. The Government, as well as NGOs, have prepared and disseminated material on legal-literacy on a large scale in the last few years. One leading example is the set of 10 booklets, entitled 'Our Laws', published by the Department of Women and Child Development, highlighting salient features of the rights available to women.

103. Legal literacy is imparted through several strategies: awareness programmes, training-cum-orientation modules, literature dissemination, sensitization workshops and multi-media campaigns involving films, plays, songs, posters and issue-based discussions. Follow-up programmes have been built into the structure and design of some of these programmes. They have consequently been very effective. These efforts are now being taken up on a larger scale. The Government is working on a National Dissemination Plan and the State Governments are formulating State level Dissemination Plans through existing Agencies/Institutions.

104. It is envisaged that legal information will be woven into the curricula of training for various grassroots functionaries, like village Health Workers, Anganwadi Workers, School Teachers, Land Record Keepers, Police and Forest Staff as well as the Panchayat (Local self-Government units) members, both men and women. Moreover, school and even college texts would contain legal information. For text books to serve a real purpose clearly the level of literacy will have to rise radically.

105. Paralegal training programmes also being extended to NGOs working for women and grassroots level and community members, including women on a pilot basis. It may perhaps be taken up eventually, as a truly mass-based programme like the extremely successful 'TOTAL LITERACY CAMPAIGN' which has made many districts of the country functionally fully literate. Women would also be provided organizational assistance to act upon the information they receive by way of establishing local networks and accessing other related support mechanisms. This will become a major activity of the National Resource Centre for Women which is now in the final stages of being set up.

Article 4

106. The notion of affirmative action or positive discrimination in favour of women is not only an essential feature of Indian political thinking since independence, but it derives from what is essentially an enabling clause in the Constitution itself. Article 15(3) of the Constitution thus lays down that special measures in favour of women and children will not be construed as violative of the principle of equality. Having said this, the Constitution, however, prohibits in Article 16, any discrimination with respect to opportunity of public employment except in case of categories or classes of disadvantaged people.

107. The State has used this concept of affirmative action widely in trying to improve the status of women. Special quotas for women in various development schemes constitutes a special feature of Indian planning since the Sixth Five Year Plan in the early eighties. We thus have 30-40% reservation for women in all our major poverty eradication programmes including the schemes of asset endowment and wage employment.

108. The State recently used this enabling clause of the Constitution to bring about a major amendment whereby reservation of seats for women in all institutions of local governance has became a Constitutional mandate. Under these amendments, one third of all elected seats in the Panchayats (local Government bodies in rural areas) and Municipalities will be reserved for women. Further, one-third of posts of chairpersons of these bodies will also be reserved for women. Through, these provisions a quiet revolution is in its making in terms of women's participation in decision-making. Elections under the new provisions are mandatory in all the States of the country. In several States, where these elections have already been held, women have won over 40% of all seats. By a conservative estimate once all elections are held, at least 800,000 women in rural areas alone, will be entering public office.

109. In response to the demand from various quarters including women's groups, parliamentarians and political parties a Bill providing 33.33% reservation for women in the national parliament and state legislatures by amending the Constitution (proposed 81st amendment of the Constitution) was introduced by the Government. This was referred to the Select Committee which has since finalized its recommendations and is currently awaiting consideration.

110. There is also a proposal under the consideration of Government, for bringing about a minimum reservation for women in public employment. This, however, is now being examined in the light of Article 16 of the Constitution which specifically prohibits discrimination which respect to opportunity of public employment except in case of categories of classes of disadvantaged people.

111. As for affirmative action for the protection of maternity is concerned, the State has enacted the Maternity Benefit Act, 1961 and made it applicable to every establishment, plantation, mine or factory. This Act provides for payment of maternity benefit at the rate of average daily wage for the period of women's actual absence. It was amended in April, 1976 to cover women, who do not fall within the purview of the Employees' State Insurance Act, 1948.

112. There was recently a proposal to amend the Act by limiting such benefit to two children only, keeping in view India's growing population. This proposal was dropped due to stiff resistance by the women's groups and the National Commission for Women.

Article 5

113. While legislative and judicial activism have constituted the mainstay of India's efforts to eliminate discriminatory behaviour, stereotyped roles and inequality of status, they can never be adequate. Laws alone or judicial activism cannot bring about enduring changes in an ancient social fabric such as India's. The socialization process is too deep and too entrenched to be tackled through legislation alone. Very often, enforcement agencies and institutions remain steeped in gender biases. Further, the biases that restrict women's mobility and access to resources are deep rooted in economic and social interests and unequal power relationships. Patriarchal controls redefine and re-assert themselves cutting across barriers of caste and community threatening the realization of the dreams of our Constitution of a gender-just society, free from exploitation. It is, therefore, necessary to change people's mindsets and bring about a societal re-orientation in all sectors and at all levels of oppression and subordination. This realization itself owes to the fact that women in India have become a "revolutionary force". They are pouring into every forum, storming every position, demanding their right to be heard and decide agendas.

114. In the Indian context, the role of the family is crucial. While the strength of the family, respect for elders and strong family values are abiding features of Indian society across religions, cultures, languages and castes, the family is also very often the site for discrimination and subordination. It is here that violence against girls and women reach alarming proportions. Female foeticide, infanticide, dowry violence and torture, remain largely invisible and often go unpunished in spite of Constitutional guarantees and the long arm of the law.

115. Several initiatives have been taken up by the Government and non-government sector as part of the endeavour to bring about a change in mindsets and sensitise males and females. Multi media campaigns have been mounted to sensitise people in addition to print and electronic media, songs, slogans and street plays.

116. Innovative strategies of community mobilization are being increasingly used in the education sphere. The National Literacy Mission through the Total Literacy Campaigns (TLCs) has played a key role in raising awareness in issues of gender equity as have the Women's Development Programme, "Mahila Samakhaya" and several other programmes. The basic end-objective has been to enable women to become movers, creators and producers of social transformation and not remain mere passive recipients and consumers of given usages.

117. Another aspect of initiatives in the education sphere is the effort to bring about a revision in curriculum, text books and teaching material from a gender perspective. The National Council for Educational Research and Training (NCERT) and the National Institute for Educational Planning and Administration (NIEPA) are coordinating these efforts through the State Governments and State Councils (SCERTs).

118. One of the core mandates of the National Machinery has been to advocate change of attitudes and values of the entire governmental machinery from within and of society at large. The two year period, preceding the Beijing Conference, was successfully utilized by the Government to launch a nationwide mobilization and consultation process on various aspects of women's status and situation along with hundreds of NGOs, State Governments, Parliamentarians and the women's movement. The changes in perceptions of women and the highlighting and articulation of women's issues and voices throughout the country during these two years was unmatched in the history of the nation. In terms of propounding empowerment-related issues for women and ensuring that they remain in focus, the run-up to Beijing has played a vital role in the country. Consultations are not new: they were taken up in the 70s and 80s also—the new phenomenon was the appearance of a large number of grass root groups of poor women not just intermediaries. This change owes much to the stepped up strategy of investment and such groups through the anti poverty programmes, to the total literacy campaigns and to the mobilization in response to the 73rd and 74th amendments of the Constitution (reserving 1/3 seats for women in local government bodies). The women had come not as individuals but as representative groups different from the family-household, kinship-community networks which have defined their identity so far. The other unique feature of this process was the fact that peasant women's voices and concerns dominated these consultations for the first time. Collective investment has perhaps helped to initiate a process of erosion of the two pillars of patriarchy: the culture of silence and social invisibility. Recent fundamentalist assertions of a specific view of culture by both religious and ethnic groups have however posed new threats to gender. The spread of intellectual beliefs (post modernism etc.) which reject universal values and propagate cultural specificity have enrolled many from elites who earlier supported gender equality reinforcing such threats.

119. As a follow up to this and as part of efforts to translate the concerns, the mobilization and the rhetoric into changes in governmental thinking and action, a National Policy for the

Empowerment of Women has recently been drafted, discussed and debated widely. It is now awaiting formal approval. This policy would represent the major policy instrument of Government to integrate a gender perspective into all aspects of planning, development, information and governance and eliminate all inequalities and discriminations.

120. Women's Studies Centres across the country and Development institutes have researched and articulated gender concerns; provided material for advocacy, campaigns, rallies, workshops, seminars, conferences and consultations and have helped in identifying issues and throwing them open to public debate. These have forced the pace of change. The women's movement has also played a dual role of demanding and petitioning the State and co-operating with relevant data and information, whenever required.

121. The National Perspective Plan for Women (1988-2000) drawn up in 1988 as a national plan, identifies training (and sensitization) as a key strategy in changing social attitudes. For the past several years, many training and sensitization programming have been organized by different agencies, governmental and non-governmental. An example of this is the recently concluded "Training Package for Women's Development", which is leading up to the establishment of National Resource Centre for Women (NRCW). Several modules on gender sensitization have been prepared and published. These include training modules on women's rights, employment and credit issues, leadership and organization, management of Women's Development Corporations (set up in 17 States of India to co-ordinate women entrepreneurship development and marketing), sensitization of the law enforcement machinery, development planners, members of the judiciary and administrators in different sectors.

122. Under the training package a major effort to sensitize Bankers has been initiated by the National Institute of Bank Management. Gender sensitization has now become a regular feature of the training calendar of the Lal Bahadur Shastri National Academy of Administration, the National Police Academy and Several State Police Training Schools/ Colleges. There is an important 4-year gender training project currently under implementation through the Department of Personnel, Government of India, which networks with State Administrative Training Institutes to develop gender training capacity in these institutes. Once the National Resource Centre for Women comes up (expected within this year), this will become the major apex national institution for training and sensitization, dissemination, networking and resource support in the sphere of gender.

123. Judicial activism by the Supreme Court of India through public interest litigation and occasional efforts by India's free media have also emerged as major instruments for bringing about changes in societal attitudes. Recently a number of media advocacy groups have come up largely in the non-governmental sphere to guard against negative portrayal and promote positive portrayal of women and girl children, particularly in the electronic media.

124. In the matter of advertisements, the Indecent Representation of Women's(Prohibition) Act, passed in Parliament in 1986, prohibits the indecent representation of women through advertisements, books, pamphlets etc. Offences under this Act are punishable with imprisonment and fine. The problem, however, is that despite the Act being in force for almost a decade and with rules in position, its application has been almost nominal. Therefore, the Government has started a detailed review of this Act with a view to making the provisions more stringent and plugging loopholes in its administration.

125. In film and television, the Cinematographer's Act and Film Censor Board are responsible for checking obscenity. However, in view of increasing portrayal of violence and explicit sex on Films and T.V., there is now an increasing demand for action to check such depiction. The consensus is towards the drawing up of self-imposed codes of conduct by producers, directors and exhibiters. The Government had constituted a Parliamentary Committee to go into the entire issue. A national media policy is also currently being debated.

Article 6

Trafficking in Women and Prostitution

126. The problem of prostitution and of trafficking in women has been sought to be tackled in India largely through enactment of legislation and its enforcement. In India, most women enter prostitution for reasons which tend to be primarily economic, while some have a base in custom and tradition at times as well. Usually women are forced into this profession without having much choice as a result of economic distress, both individual and familial. There has been no scientific assessment of the magnitude of the problem so far, but the phenomenon of prostitution is largely concentrated in large cities followed by smaller concentrations in small towns.

127. The Constitution of India expressly prohibits traffic in human beings. Government of India enacted the Suppression of Immoral traffic in Women and Girls Act, 1956 in pursuance of the International Convention for the Suppression of Traffic in persons and of the Exploitation of the Prostitution of Others signed in New York on 9 May 1950. This law continued to govern the regulation, control and penalization of the offence relating to prostitution till 1978, when some minor amendments were carried out relating to the implementation of Act. In 1986, however, a major exercise was undertaken to amend the Act as a result of the suggestions made to Government by voluntary organizations working for women, advocacy groups and various individuals and this resulted in enlarging the scope of the Act, making penal provisions more stringent, and introducing a certain minimum standard of correctional treatment and rehabilitation of victims. Under the Amendments carried out in 1986, the name of the Act was changed to 'Immoral Traffic (Prevention)

Act (ITPA), 1956 to widen the scope of the Act to cover all persons, whether male or female, who are exploited sexually for commercial purposes. Further, crimes involving children and minors were made more stringent by enhancing the period of imprisonment, along with appointment of Trafficking Police Officers to investigate crimes having inter-state ramifications within the country. The amendment additionally proposed for medical examination of all persons recovered from a brothel as a result of a search and that such women and girls removed as a result of the search should be interrogated only by women police officers, or if they were not available, at least in the presence of women social workers.

128. Basically, the present Indian law on the subject attempts to tackle the problem of prostitution and trafficking, without abolishing the practice of prostitution as such. Under the Act,'prostitution' is defined as the sexual exploitation or abuse of persons for commercial purposes, and the expression 'prostitute' is to be construed accordingly,. Three categories of persons are mentioned in the Act, namely a 'child' as a person who has not completed 16 years of age, a 'minor' as a person who has completed 16 years but not 18 years and a 'major' as a person who has completed 18 years of age. Under the Act, running a brothel or allowing a premises to be used as a brothel is punishable, as is living on the earnings of prostitution. To procure, induce or take a person for the sake of prostitution is also punishable with a minimum of 3 years of rigorous imprisonment and fine. In case this offence is committed against the will of any person or with respect to a child, the terms of imprisonment can extend up to 14 years or even life but not less than 7 years. The law provides that if a person detains any other person with or without his consent, then the punishment would not be less than 7 years, and in the case of a child, an important provision was introduced in 1986 stating that if a person is found with a child in a brothel, a presumption would be that the child was detained in the premises where prostitution is carried on and would be punishable as stated above. The onus of disproving the presumption would lie on the offender. Further, if such a child has been found to be sexually abused, the law would presume that such a child was used or exploited for the purpose of prostitution.

129. ITPA also prohibits prostitution in public places as well as seduction or soliciting for the purpose of prostitution. In the 1986 amendment, a provision was also introduced to punish a person who has custody, charge or care of, or is in a position of authority over any other person and who abets or aids or causes seduction for prostitution, with punishment between 7-10 years. Legally, the State is obligated to provide for corrective institutions under which female offenders found guilty of crimes under the Act could be kept in custody. Some provisions have also been made permitting police officers to carry out search of any premises under this Act without warrant, as well as to empower the police to rescue persons found in places, where prostitution is going on.

130. As far as the judicial structure is concerned, Central or State Governments are empowered to consult High Courts and establish special courts for speedy trial of crimes under this Act. Some discretion is also provided to Presiding Officers of both specific and other courts to try cases summarily. Finally, the law provides for the appointment of Special Police Officers in specific areas to deal with crimes under the Act in that area. To assist the Special Police Officer, the State Governments are empowered to associate a non-official advisory body consisting of not more than 5 leading social workers of that area, including women, to advise him on the implementation of Act.

Further, the Central Government is empowered to appoint Trafficking Police Officers to deal with inter-State ramifications of the trafficking and prostitution of persons.

131. Recognising that certain areas in the country tend to be potential areas from where women in this profession originated, the Government of India feels that the development of such source areas is of critical importance in confronting the problem of sexual exploitation of women. As the CSWB survey report mentioned above has indicated, economic distress and lack of options are the major reasons for the introduction and continuation of young women into the prostitution trade as either a child prostitute or as minor or adults. In particular, in the originating families, poor and uncertain family incomes and lack of access to marketable skills and productive resources keep them below the poverty line in important cases. Thus such families are particularly susceptible to this kind of exploitation. Therefore Government feels that a major effort needs to be made for identifying and developing such vulnerable source areas. On the basis of the districts identified in the survey indicated above, a long term source area development plan needs to be worked. A beginning has already been made in two such areas in the country. In the districts of Murshidabad in West Bengal State, which contributes 23% of Calcutta's prostitutes, the Government of India, under the scheme of Support to Training and Employment Programme(STEP), sanctioned an integrated training-cum-income generation project in the silk yarn production sector for a group of villages from where a significant proportion of young women used to migrate into or were sold of into the prostitute trade. Under the project, being implemented by a non-governmental organization called Development Dialogue, 1230 women have been trained in a cluster of 10 villages to produce high quality yarn with a significant value added component. These women have been organized into groups and are now accessing the market on their own as well as managing their entire economic activity. This has led to a definite improvement in the economic situation of the families as a result of increased earnngs per day as well as an increase in the number of days of work per month. There are indications that this has helped in arresting the migration of young women into the flesh trade from this area while at the same improving the quality of life.

132. Similarly, under the same scheme, a State level corporation in Karnataka is training 4500 women belonging to low income socially backward communities in handloom weaving in the State of Karnataka. Of these 4500 women, approximately 1/4th are those women who, as a matter of custom were subjected to sexual exploitation through temple based dedication. The project is also expected to focus on the children of such women and would attempt to economically strengthen such families with the objective of increasing their resistance to such institutionalized exploitation.

133. The Government of India feels that the above approach can be widely extended to other source areas also and a comprehensive overall source area development programme, based on existing development schemes, can be implemented over the coming years.

134. While there have been varied reports of the magnitude of the child prostitution problem, a CSWB survey report indicates that the number of child prostitutes would be around 15% or so of the total population of prostitutes in India. To confront this problem, Government of India set up a Central Advisory Committee on Child Prostitution in March 1994, which submitted its final report in May 1994. The report contains recommendations in the area of enforcement of law, removal of

child prostitutes from red light areas, institutionalized care of such rescued child prostitutes, counselling and vocational training for rehabilitation purposes, and the setting up of an effective administrative machinery for the implementation of the recommendations of the report. It also recommending that a plan is to be drawn up for imparting appropriate orientation and sensitization training to Special Police Officers, as well as other Custodial Officers who would be dealing with the problem of child prostitutes, in the course of their duty.

135. The report of the Central Advisory Committee has called upon all State Governments and Central Agencies to implement these recommendations. It is expected that positive action would be emerging over the next few years on the problem of child prostitution.

136. A number of studies have indicated that the present laws tend to penalise the prostitute who is really the victim, more than the exploiters. It has been felt that the law needs to be oriented more to punishing the perpetrator and helping with the rehabilitation and welfare of the sex worker. As a result of this workshop, Government of India requested the National Law School of India University, Bangalore to conduct a thorough study and review of the law, and make necessary recommendations for legal reform. The final report of the Law School has been received and is being examined by government in consultation with the National Commission for Women.

Article 7

137. Women in India were granted equal political rights as men, including the right to vote (universal adult franchise) and the right to hold public office, right from the dawn of independence. This radical step was a logical extension of women's large scale participation in India's freedom movement under the inspiring leadership of Mahatma Gandhi. The non-violent nature of the movement also enabled women from all walks of life to join and in large numbers. In the post independence period, women have continued to speak out on all issues. Article 326 of the Constitution guarantees political equality to women. The elections are held on the basis of universal adult franchise. Article 325 prohibits exclusion from electoral rolls on the basis of sex.

138. Women, through participation in public life, have effected change in their circumstances. In the North, South and North-East regions of the country, for example, there have been collective movements against alcohol, trafficking in drugs, gambling and theft. The Chipko Movement in the North for safeguarding of forest wealth, is also largely a women's movement. Many campaigns by women under the banner of the Total Literacy Campaign in Andhra Pradesh have resulted in prohibition throughout the State. This has also happened in Haryana : a North Indian State.

139. While women have been in the forefront in various movements, their presence has not been felt strongly in structured decision-making and institutions. However, women have participated in the political process - as voters, as candidates contesting elections, in deliberations in the State Assemblies and the National Parliament. They have held office at different levels. At the individual level Indian politics has alway accepted and given high esteem to women who have reached positions of power and influence- as Prime Ministers, Chief ministers, Governors, Ambassadors etc.

However this did not help to overcome institutionalized subordination affecting the majority: a phenomenon of global magnitude. Despite a sharp increase in women's 'articipation as voters and candidates, their number in elected bodies stagnated, primarily because of resistance of political parties to sponsoring women candidates. In 1957, 60% of women candidates were elected. In 1990 with a far higher number of seats and candidates, only 11% were elected.

140. The 73rd and 74th Constitutional Amendments which reserved not only 1/3 of all seats at all levels of local government, but reserved 1/3 of all posts of chairpersons of such bodies for women, initiated a powerful strategy of affirmative action to increase women's participation in decision making: priority being given to the lowest tiers of local governance. The response to this strategy has been encouraging everywhere and dramatic in some states where women in far excess of the quota have been elected. Over one million women have entered public office throughout the country. The challenge now is to transform this large presence into effective participation supported by real delegation of powers and responsibilities so that decisions are taken at levels which are accessible to women. This was something that the women's movement had been demanding for a long time. The recently drafted National Policy for the Empowerment of women which is awaiting final approval, has, also given a strong emphasis to efforts to increase the critical mass of women in decision making at all levels by calling for continued affirmative action to make this happen. There has also been a demand from various sections of population including Parliamentarians, political parties, NGOs and activists to reserve seats for women in the state legislatures and national parliament. In response to this a Bill (81st Constitutional amendment) seeking to institute one third reservation for women in the Parliament and State legislatures is currently awaiting consideration in Parliament.

Article 8

141. The Indian government is constitutionally bound to provide equal opportunity to men and women to represent its interests at the international level. In the 50's itself, India appointed women as ambassadors (in the 50s), Ministers for External Affairs, and leaders of Indian delegations to international conferences. A discriminatory condition whereby women members of the Indian Foreign Service had to leave the service on marriage was also struck down as unconstitutional by the Supreme Court. Briefly it may be mentioned that at present there are over 63 women in the Indian Foreign Service, who occupy important positions both in the Indian missions abroad and in the Foreign Office. A detailed list is given below:

List of Women Officers in the Indian Foreign Service

S.N.	Name	Designation	Present Posting
1.	Arundhati Ghosh	Ambassador/PR	Geneva(PMI)
2.	Kamlesh Kumar	Amb.	Finland
3.	Chokila Iyer	Ambassador	Mexico
4.	Savitri Kunadi	Addl. Secy. (UN)	Hqrs.
5.	Madhu Bhaduri	Ambassador	Minsk
6.	Shyamala B. Cowsik	DCM	Washington
7.	Leela K. Ponappa	Jt. Secy.	Hqrs.
8.	S.U. Tripathi	Ambassador	Warsaw
9.	Veena Sikri	Consul General	Hong Kong
10.	Navrekha Sharma	Joint Secretary (T.C)	Hqrs.
11.	Suryakanthi Tripathi	Minister	Washington
12.	Nirupama Rao	Ambassador	Lima
13.	Meera Shankar	Jt. Secy.	On dep. as DG(ICCR)
14.	Lakshmi Murdeshwar Puri	Jt. Secy.	Hqrs.
15.	Nilima Mitra	Jt. Secy.	Hqrs.
16.	Sarita Bali	Director	Hqrs.
17.	Lavanya Prasad	Minister	Madrid
18.	Neelam D. Sabharwal	Minister	Beijing
19.	Parbati Sen Vyas	Minister	Dhaka
20.	Neelam Deo	Ambassador	Copenhagen
21.	Vijaya Latha Reddy	DCM	Vienna
22.	Kanwal Commar	Minister	Zagreb
23.	Sujatha Singh	Jt. Secy.	Hqrs.
24.	Susmita G. Thomas	Jt. Secy.	Hqrs.
25.	Primrose Sharma	Minister	London

26.	Homai Saha	Director	Hqrs.
27.	N. Chitra Mohan	Director	Hqrs.
28.	Deepa Gopalan Wadhwa	Consul General	saint Denis
29.	Jordana D. Pavel	DHC	Harare
30.	Sujata Mehta	Director	Hqrs. (Dep. to PMO)
31.	Smita Purushottam	Counsellor	Port Louis
32.	Nengcha L. Mukhopadhyay	Consul.	New York
33.	Banarsi Bose Harrison	Councellor	Budapest
34.	Manimekalai Murugesan	Counsellor	Egypt
35.	Preeti Saran	Director	Hqrs.
36.	Hemalata C. Bhagirath	Counsellor	London
37.	Ruchi Ghanshyam	Counsellor	Brussels
38.	Radhika L. Lokesh	Counsellor	Washington
39.	Shamma Jain	First Secy.	Ankara
40.	Anita Nayar	First Secy.	Tel Aviv
41.	Reena Poovaiah Pandey	Dy. Secy.	Hqrs.
42.	Mukta Dutta Tomar	Dy. Secy.	Hqrs.
43.	Nandhini Iyer Krishna	First Secretary	New York
44.	Monika Mohta	First Secy.	Kathmandu
45.	Kheya Bhattacharya	Dy. Secy.	Hqrs. (on dep. as Dir(Prog) in ICCR)
46.	Vijay Thakur Singh	Dy. Secy.	Hqrs.
47.	Narinder Chauhan	First Secy.	Bangkok
48.	Riva Ganguly Das	First Secy.	Panama
49.	Aruna Santwan Fontana	First Secy.	Bratislava
50.	Gaitri Issar Kumar	First Secy.	Kathmandu
51.	M. Subashini	First Secy.	The Hagul
52.	Ruchira Patni	First Secy.	Port Louis
53.	Sangeeta B. Mann	First Secy.	Sofia

54.	Renu Pall	Under Secy.	Hqrs.
55.	Suchitra Durai	First Secy.	Beunos Aires
56.	Reenat Sandhu	First Secy.	Washington
57.	Nagma Mohammed Mallick	Under Secy.	Hqrs.
58.	Neena (Dr.)	Second Secy.	Paris (PDI)
59.	Manika Jain Sharma	Third Secy.	Lisbon
60.	Neeta Varma	Third Secy.	Tokyo
61.	Vani Sarraju Rao	Third Secy.	Mexico City
62.	Subhadarshini Tripathi	Third Secy.	Tel Aviv
63.	Supriya Rangathan	Third Secy.	Ankara
64.	Vijay S. Kulkarni	On Training	Hqrs.
65.	Abhilasha Tamta	On Training	Hqrs.

142. It will be noticed that the Permanent Mission of India at Geneva is headed by a woman. Until recently, a woman headed the Permanent Delegation of India to the UNESCO. Deputation of persons to International organizations is usually on the basis of job requirements and suitability of persons and not on consideration of gender. However it is Government of India's endeavour to encourage participation of women in the work of International Organizations at all levels, A representative list of women who currently work in International organizations is given below:

List of Women Officers on Deputation to International Organizations

S.N.	Name	Present Posting
1.	Nina Sibal (JS)	Representative of UNESCO at New York
2.	Mitra Vasisht (JS)	External Relation Officer, UNFPA
3.	B. Mukherjee (Dir.)	Special Assistant to Assistant Secretary General

Article 9

143. In India, the Citizenship Act, 1955 provides for the acquisition and termination of Indian citizenship. Under this women have equal rights with men to acquire, change or retain their nationality. An Indian woman married to a foreigner can continue to retain her Indian citizenship even though she may have acquired the citizenship of the country of her husband by virtue of her marriage i.e. by operation of the law of that country and without any voluntary act on her part. An Indian women marrying a foreigner continues to retain her Indian citizenship till she renounces it or voluntarily acquires the citizenship of her husband's country.

144. As regards the nationality of children, in the past the Indian Citizenship Act provided that in cases of children born outside India, a child will be considered an Indian national only if his or her father was an Indian citizen at the time of his or her birth. This provision acted against the interests of Indian women marrying foreigners and living outside India and provided the right to citizenship by descent only from the father's side.

145. In the light of obligations undertaken by the Indian state by ratifying this Convention, the Citizenship Act was amended in 1992 to correct this anomaly. Under the amended provisions a child born in India or outside would acquire Indian citizenship if either of his or her parents was an Indian citizen at the time of his or her birth.

Article 10

146. Recognizing that education was the most important instrument for human resource development and for enlarging people's options in life, the makers of our Constitution included free and compulsory education up to the age of 14 years as a Directive Principle of State Policy, imposing on the state a moral and constitutional obligation. In a recent judgement the Supreme court has ruled that since the time set in the Constitution for doing this is already over, this has now the force of fundamental right.

147. The Government of India has declared its intention to make education a fundamental human right. The Indian constitution and the Universal Declaration enshrine this right. Promotion of education and literacy holds the key to the success of social and economic development. Education has to be the corner stone for the liberation of oppressed sections and for realizing the full potential of our massive human resource. Education enlarges people's choices to lead satisfying lives. Education broadens horizons and fosters values. Education and literacy are basic tools for social justice and human security in its broadest sense. Basic education is one of the most effective catalysts for social change.

148. Gender deprivation, denial and discrimination have their roots in unequal access to education and gender gaps in achievement.

149. The National Policy of Education (1986) revised in 1992 and the Programme of Action (POA, 1992) reflect an unqualified priority to Universal Elementary Education, Total Literacy and the ending of gender differentials. A fundamental mandate of the National Policy on Education is to educate for women's equality. This goes beyond merely ending gender gaps in educational attainments: it seeks to alter the very process and content of education so that it changes people's and societal mindsets. It is this recognition that underlines the empowerment strategy which constitutes the core of our National Education Policy. For the first time it carried the message that along with expanding women's access to all kinds of education, the system, with all its institutions, had to shoulder a major responsibility for genuine empowerment of women, by changing the social construction of gender. The gap between promise and expectation, however, continues to be wide and ground realities of gender disparities are still grim by any standard, in spite of many initiatives and positive developments particularly during the Eighth Plan.

The Problem : Extent and Causal Factors :

India is home to the largest number of illiterate women in the world. In rural India, out of every 100 girls who enrol in Class I, only 1 enters Class XII. In urban areas the position is only slightly better with 14 girls entering in Class XII. Out of 100 girls who enrol in Class I, less than 40 join Class V, an attrition rate of 60%!

150. Inadequacy of the education system to reach out to girls and women is seen from four different aspects viz. supply, access, demand and participation. Since decisions and choices are made at the levels of the household, the market and the government, the analysis must relate to all these levels. Finally, girl's and women's needs, problems and perspectives must be seen in the multi-dimensional context of their domestic and social roles and responsibilities.

151. On the supply side, not having a school within easy reach of home is often a barrier to girl's enrolment and retention. Closely related to this physical proximity is the question of quality of school education. Similarly, the availability of girl's schools as opposed to co-educational schools is also an important factor. Too often girls do not go to school particularly at the secondary level unless the school has separate lavatories and a degree of privacy for girls, particularly as they move to upper primary levels.

152. Sometimes having lady teachers can make a difference. This factor is brought sharply into focus when comparing the percentage of lady teachers between Kerala and Bihar/Uttar Pradesh. Poor road and transport infra-structure and limited teacher training institutions in rural areas impede rural women from receiving teacher training. Conversely these factors hinder urban women from taking up teaching jobs in rural areas. This is a vicious circle.

153. On the demand side, when it comes to education, costs are a major factor. Even when education is free, there are both direct and opportunity costs which are very real. Cost of books, uniform, mid-day meals, etc. are major costs for poor families. Opportunity costs incurred because of the loss of girl children's availability for household chores and wage earnings are very often the major costs for poor families for sending their daughters to schools. Cultural norms increase the costs of girl's schooling both in terms of direct and opportunity costs.

154. Moreover, while the costs of schooling appear to be real and immediate, the benefits are often too remote to perceive. While, the gender division of labour tends to mask the benefits of girl's education in the short run, the usual social norm of a woman settling down in the husband's home, often in a different village, further undermines the perceived economic benefits of sending daughters to schools. The concept of the daughter as a *"someone else's wealth"* which can at best benefit another household, reduces the incentives of sending daughters to school. On the other hand, as a consequence of lack of education and schooling, the labour market also discriminates against women in terms of wages and hierarchy of tasks. As a result, market signals further reinforce the perceived futility of girl's education and the vicious circle goes on. The practice of dowry further aggravates the situation. The more educated a girl is, the higher needs to be the education level of the groom, thereby increasing dowry price.

155. As Prof. Amartya Sen and Jean Dreze have pointed out in their book "Economic Development and Social Opportunity", while for male education, motivation of the family/parents is not a problem except for very poor families, where the loss of wage labour can be a direct and immediate disadvantage, for female education, this is often not the case. It is a combination of parental apathy, socio-cultural norms, direct and indirect costs, market failure to capture and reflect the true costs and benefits of girl's education, the law and order situation, inadequate and inappropriate educational infra-structure as well as low participation of women in the system (insufficient number of women teachers) that has made female education trail behind male education. Public action, therefore, needs to address all these issues.

Current Status and Strategies :

Against the background of ground level realities, the goals for Education for All in India as outlined in 1993 constitute :

(i) Expansion of early childhood care and development activities for poor and disadvantaged groups.
(ii) Drastic reduction in illiteracy.
(iii) Universalization of elementary education.

(iv) Provision of opportunities to maintain and upgrade education.

(v) Creation of necessary structures, processes and institutions which would empower women and make education an instrument of women's equality.

(vi) Improving the content and process of education to relate it better to the environment.

(vii) Using education as a tool for the empowerment of women

Early Childhood Education :

The major vehicle for early childhood education in India is the Integrated Child Development Services (ICDS) programme which has registered dramatic expansion during the Eighth Plan. Starting with 3009 projects covering 13.9 million children, out of which 8.6 million were in the pre-school age of 3-6 years during 1995-96, the programme was universalized during the current year as a result of which 5614 projects in the country will cumulatively cover 43.7 million children out of whom 29.1 million may be expected to be in the age group of 3-6 years. This probably represents 35-40 per cent of the total pre-school population in the country and the entire target group of poor and disadvantaged pre-school children. Several evaluations of ICDS have shown that the children going through the Anganwadis have better chance of retention than those who go into the primary level directly. The gender disaggregated monitoring of ICDS shows that out of 10.5 million children in the pre-school age being currently covered, 49 per cent are girls.

Literacy :

The Literacy Rate among women which was 24.3 % compared to 46.39% among males in 1981 has gone up to 39.29% for females and 64.13% for males in 1991. In 1981 there were only 4 States/UTs (Union Territories) with female literacy above 50%. In 1991 there were 14 States/UTs in this category. The impact of central and state initiatives was reflected in the decennial literacy growth rates : a healthy 7.76% for men and a burgeoning 9.54% for women. There were, however, wide regional variations ranging from near universal female literacy in Kerala (86.17%) to a mere 20.44% in Rajasthan. Similarly, rural urban differentials were significant. Thus, the literacy rate for rural areas is only 44.7% vis-a-vis 73.1% for urban areas in 1991. Female literacy in rural areas at 30.6% is still very low and is less than half of the literacy rate of females in urban areas.

156. The Total Literacy Campaign has a focus on women as part of strategy as well as principle. In most of the 356 districts covered by these, women make up over approximately 62% of adults enrolled in the programme. Two third of the total learners in a district are generally women. Up to January 1995, out of a total enrolment of 74 million, 44 million were women. Post Literacy Campaigns have been extended to 134 districts. So far 46 million persons have been made literate and the enthusiasm of women literacy activists have turned the literacy campaigns in many areas into virtual women's movements.

Elementary Education :

According to the 6th Educational Survey the total number of children enrolled in the Primary Classes (I-V) in 1993 was 97.74 million, out of which girls comprise 43.1% while boys comprise 56.9%. In percentage terms, this represents a very small increase since the 5th Education Survey when it was 40.81% and 59.19% respectively. The gross enrolment ratio for boys and girls is 106.20% and 85.02% in class I-V respectively, which compared with 106.42% and 79.89% respectively in the Fifth Educational Survey is only a marginal improvement.

157. School retention is another serious casualty when it comes to girls. For instance, enrolment figure of class V as a percentage of Class I enrolment is only 52.04% for girls. In some states like Rajasthan this figure is only 26.55%, implying that about 3/4 of the girls enrolling in Class I drop out by the time they reach Class V. On an average during 1993-94, a little more than one-third (39%) of the number of girls enrolling at primary stage dropped out before completing primary level and more than half, i.e. 57% dropped out before completing upper primary levels and of the remaining 43% who reached the higher secondary stage, another 10% dropped out before the end of school. Thus, only about 32% of girls entering primary stage reach the end of secondary schooling.

158. Till 1993, there were 5,75,000 schools in the country registering a growth of 8.78% since 1983. Even according to the 5th Education Survey, 94.5% of the rural population had schools within a walking distance of 1 km. While as a proportion of GDP, total spending on education has increased from 1.2 per cent in 1950-51 to 3.5 per cent and is slated to reach 6% by the end of the Ninth Plan, public expenditure on elementary education increased from 0.46% of GDP in 1950-51 to 1.7% in 1989-90. As mentioned earlier the share of elementary education in total public expenditure on education is about 45 to 46 per cent.

159. In many states free education for girls is already part of the effort to improve participation rates (Delhi, Chandigarh, Manipur, Meghalaya, Punjab, Rajasthan, Uttar Pradesh, Assam, Bihar, Himachal Pradesh, Karnataka, Lakshadweep, Mizoram and Tamil Nadu). Free education upto Class XII is provided in the Government schools of Andaman & Nicobar Islands, Arunachal Pradesh, Dadra & Nagar Haveli, Daman and Diu, Goa, Gujarat, Jammu & Kashmir, Kerala, Madhya Pradesh, Pondicherry, Sikkim, Tripura and West Bengal.

160. Presence of female teachers has been found to have a strong correlation with female enrolment and retention rates. Some states like Tamil Nadu, Karnataka and Maharashtra have specific policies in this regard. Under the Operation Blackboard scheme, the stipulation is that at least 50% of teachers recruited in future should be women and there has to be at least one woman teacher in every school. Of the 1,27,000 teachers appointed as part of the scheme, 49% or 59,690 are already women. According to the 6th All India Educational Survey, female teachers comprised 31.41% of all teachers in the Primary Schools, as against 28.20% in 1986 (5th All India Educational

Survey). In other words there was a mere 3.21% increase in female teachers at the primary level between 1986 and 1993. The corresponding figures in the Rural areas were 23.45% (1993) and 20.94% (1986).

161. Setting up more upper primary schools has been a plan priority. Between 1986 and 1993, there has been a 15.75% increase in upper primary schools in the country with 13.07% increase in rural and 27.45% increase in urban areas.

162. To meet the needs of girls who are unable to attend formal schooling, the Non-Formal Education (NFE) system has been expanded. NFE centres run exclusively for girls get 90% assistance from the Central Government. As a special incentive to girls, the ratio of number of girl centres to co-educational ones has been increased in the scheme from 25:75 to 40:60. There are at present 100,000 exclusive girl centres out of the 270,000 centres. The total enrolment in NFE centres by March 1994 was 6.4 million.

163. A programme of nutritional support to Primary Education (Mid-day Meal) was launched on 15.8.95 to give a boost to universalization of Primary Education. It is expected that by 1997-98, the programme will be extended to all Primary Schools in the country.

On going Programmes : a Review

164. The major strategy has been to launch innovative special programmes which include both demand side and supply side interventions in some of the most educationally backward States of India. The foremost among them are the following :

- "Mahila Samakhaya" (In 4 States : U.P., Karnataka, Gujarat and Andhra Pradesh) - which does not aim to deliver services but seeks to bring about changes in women's perspectives about themselves and that of society in regard to women's traditional roles and attempts "to create an environment for women to seek knowledge and information in order to make informed choices and create circumstances in which women can learn at their own pace and rhythm."

- Decentralised Planning for Elementary Education (DPEP) (In 7 States : Assam, Haryana, Maharashtra, Karnataka, Tamil Nadu, Kerala and Madhya Pradesh) - seeks to operationalise a strategy of decentralized planning with special gender focus to universalize elementary education.

- "Lok Jumbish" - a programme of universal primary education in educationally backward Rajasthan emphasizing as its essential features gender centrality, improvement in teacher's status, decentralization, emphasis on processes, consensus building and partnerships, participatory planning and evaluation, commitment to quality and mission mode.

- "Shiksha Karmi" Project in Rajasthan - aims to revitalize and expand primary education, specially in remote and backward villages of the state. With teacher absenteeism being identified as a major problem area, it aims at substituting teachers in single teacher schools with a team of educated local residents called "Shiksha Karmis", at least 10% of whom have to be women.

- U.P Basic Education Project (10 Districts of U.P.) - attempts to operationalise the concept of a school complex with a convergence of services for different age groups.

- Andhra Pradesh Primary Education Project - has a two pronged strategy of intervening through improvements in teacher training and through school construction activities.

- Bihar Education Project - Mahila Samakhaya (BEP-MS) - conceives education as a decisive intervention towards women's equality and empowerment. While seeking to improve the content and process of education, establishing a system of training teachers and communities, working out wide ranging partnerships with political parties, activists, voluntary agencies, teachers etc., making the village school and the NFE system accountable to the people, it uses the Mahila Samakhaya process of enabling women to come together to gain information and knowledge, ask questions and take issue-based collective action.

- Distance Education - The National Open School has formulated an innovative project aimed at providing alternative schooling to :-

- Neo-literate who have acquired functional literacy.
- Early school drop-outs with rudimentary literacy skills.
- Drop-outs from the non-formal education system who have literacy skills.
- Learners who have attended non-formal education programmes and whose literacy skills are marginally better developed.

Secondary Education :

The access of girls to secondary education is very poor. According to provisional figures of the Department of Education, there were only 55 girls per 100 boys enrolled in Secondary level (IX-X) in 1993-94. Similarly, the drop-out rate for girls at the secondary level was 74.54% (for boys it was 68.41%), calculated as a percentage of intake in Class I. Although, according to the 6th All India Educational Survey, there was a 50% growth in girls's enrolment at the secondary level, vis-a-vis a 21% increase for boys, in terms of percentage of enrolment the figures are still quite small. It was 36.15% in 1993, the rural-urban break up being, 32% in rural areas and 42% in urban areas.

165. At the higher secondary level, girl's enrolment registered a 53.97% increase from 1986 to 1993. In term of percentage of total enrolment in Class XI-XII, girls comprised 34.69% in 1993. The

corresponding figures for rural areas was 28.85% and that for urban areas was 37.78%.

166. On the supply side, the 6th Educational Survey records an increase of 25% in the number of secondary schools and 52% in the number of higher secondary schools compared to 1986. This compares with a growth of 8.78% for Primary schools and 15.75 for upper Primary schools during the corresponding period. In terms of habitations having schools, the growth has been 6.10% for Primary Schools, 13.00% for Upper Primary Schools, 22.13% for Secondary and 33.72% for Higher Secondary Schools.

167. The current interventions in the sphere of secondary education can be enumerated as below

- Free secondary education in many states.
- Free education is provided in Navodaya Vidyalayas and Kendriya Vidayalayas (special schools set up by the Central Government) to girls up to class XII. In Navodaya Vidayalayas and Centres for Excellence, one third of the students have to be girls.
- The Central Social Welfare Board runs condensed courses for women/girls in primary, middle, matric and secondary levels to cater to the drop-outs and arrange for award of certificates to the successful candidates by relevant bodies such as the Directorates/Boards of Education in the states.
- Special programmes exist for vulnerable groups of population viz. Scheduled Caste and Scheduled Tribe girls, funded by the Ministry of Welfare and implemented by the State Governments for providing scholarships, hostel facilities, free uniforms, and text books to these groups of girls.
- A scheme exists to encourage training of teachers in science and mathematics.
- A new initiative is the operationalisation of the scheme for assistance to voluntary organizations for strengthening boarding/hostel facilities for girl students of the secondary and higher secondary schools. During the Eighth Plan, 3580 girls will benefit from this initiative.

Tertiary Education, Technical Training and Vocational Education :

The efforts of the last 4 decades have resulted in a massive increase in the numbers of women who enter university. From 40,000 in 1950-51, the number of women who enrolled in higher educational institutions has gone up 51 times. In 1995-96, 2.065 million women had enrolled in universities and polytechnics across the country.

168. In the technical and professional higher education programmes too, there has been a marked increase in the participation of women. From 6,000 women in 1950-51 the number rose 23 times to 141,000 in 1986-87. In the five Indian Institutes of Technology and in other engineering and technology related institutions, against 40 students in 1951 or 0.34% of the total population of students, it has risen to 13.1% of the total or 78,300 girls.

169. Provisions exists for vocationalisation at higher secondary levels. A scheme for pre-vocational education at lower secondary stages has been introduced so that simple marketable skills can be introduced in classes IX and X itself to pre-empt choice at higher levels. However, so far, girls constitute only 22 % of enrolment in vocational courses at Classes XI and XII (plus 2 stage).

170. For girls who complete class X and then drop-out, vocational training programmes which emphasize entrepreneurship are being designed. This is a centrally sponsored scheme which consciously attempts to introduce new and emerging technologies to women.

171. The Central Social Welfare Board (CSWB), an organization for networking with NGOs working for women, runs a vocational training scheme under which women are given vocational training in different trades leading to certification by the Directorates of Technical Education of the states. During the first three years of the Eighth Plan, 100,000 women had been awarded certificates under this scheme leading to impressed employability in the formal sector.

172. In addition, there are a number of vocational training schemes linked with employment generation such as TRYSEM (40% reservation for women), NORAD and STEP (DWCD), Nehru Rozgar Yojana, EDP programmes of banks, SIDBI etc., which are either women specific or have disaggregated targets and reservations for women.

173. The Ministry of Labour runs a number of vocational training programmes through :

- Vocational Training Institutes for Women : 1 National Vocational Training Institute (VTI) and 10 Regional VTIs with capacity for 1496 women.
- State Governments are given assistance for women's ITIs (Indian Technical Institutes) and women's wings in general ITIs. Presently there are 189 women's ITIs and 211 women's wings in general ITIs with a total sanctioned capacity (for women) of 32,609 seats. 100 new ITIs or women's wings in general ITIs are to be set up and new trades are to be introduced in 64 of them under a World Bank-assisted programme.
- A scheme for vocational rehabilitation centres (VRC) for handicapped women was launched in 1986-87 to provide rehabilitation to handicapped women through vocational training. There are 17 VRCs in the country.

174. The Department of Education supports Polytechnics run by state governments. Out of 450 Polytechnics in the country, 45 are exclusively earmarked for women.

175. In terms of coverage however, all the efforts of the government through Polytechnics, ITIs, RVTIs, Vocationalisation at +2 stage etc. continue to be grossly inadequate. Much more needs to be done. In terms of post-vocational training follow-up and counseling also a lot has to be done.

Non-Discriminatory Education and Training Material :

Curriculum revision, revision of training material and sensitization of teachers are three priority areas identified in the National Policy on Education (NPE) 1986 and the National Council for Educational Research and Training (NCERT) is the nodal institution responsible for this alongwith National Institute for Educational Planning and Administration (NIEPA). In the DPEP these are essential inputs into the programme. The draft National Policy on Women also proposes to make this a general mandate for Central and state agencies. The Minimum Levels of Learning (MLL) developed by NCERT are being further developed and operationalised by states and gender aspects are coming into the actual transaction processes.

176. The University Grants Commission(UGC) assists 22 universities in running centres for women's studies which have the mandate to act as catalysts /resource agents to assist the universities to engender their curriculum, research agenda and community development activities. The UGC has recently agreed to support special refresher and orientation programmes for teachers from different disciplines in concepts/methodologies developed by the women's studies (which is multidisciplinary by definition) scholars in India., The Department of Women and Child Development also assists a number of colleges in Delhi for this purpose. The UGC has relaxed age restrictions for women to improve their opportunities to participate in academic programmes as many women want to enter vocations after marriage and childbirth. In pursuance of the National Policy on Education's mandate, the Indira Gandhi Open University (which is the apex body for distance education) has developed a multidimensional, multiple objective and multimedia programme on Empowerment of Women. The target groups of students include field functionaries of government as well as NGOs and persons with different levels of formal education.

Article 11

Equality of Opportunity in Employment

177. The Constitution of India grants equality of opportunity to all citizens in matters relating to employment or appointment to any office under the State. It expressly forbids discrimination in respect of any such employment or office on the basis inter-alia of sex. Article 39 of the Constitution enjoins the State to direct its policy to secure to the citizens, men and women equally, the right to adequate means of livelihood.

178. The right to work under Indian Constitution is not a fundamental right which can be enforced

in a Court. In view of the economic constraints of a developing nation the Constitution enjoins that the State shall, within the limits of its economic capacity and development, make effective provisions for securing the right to work. To fulfill this Constitutional directive, the Government of India has time and again introduced various programmes to enhance the employment opportunities for women.

179. The Equal Remuneration Act forbids discrimination against women at the time of recruitment or in their conditions of service subsequent to recruitment. Article 46 of the Constitution directs the State to promote with special care the educational and economic interests of the weaker sections of the peoples. In line with these directives, special clauses in various labour laws provide for the protection and welfare of women workers in factories, mines, plantations and shops and commercial establishments.

180. Legally there is no restriction for women regarding the choice of profession and employment besides restrictions on some hazardous forms of employment according to labour laws based on relevant ILO Conventions. However in practice it has been seen that women are still concentrated in certain occupations which are traditionally viewed as preserves of women. Some times de-facto restrictions have been imposed on employment of women in certain areas due to certain traditional stereotypes. In a number of cases, the Courts in India have pointed out the irrelevance of discrimination against women on the basis of traditional divisions of male and female roles in the light of contemporary knowledge and experience. It has been held that to achieve genuine equality between the sexes, it is essential that nobody should be forced into a predetermined role according to sex but each person be given possibilities and opportunities to facilitate his or her choice. (W.A.Baid V. Union of India, A.I.R. 1976 Delhi 302; A.N. Rajamma, V. State of Kerala, 1983 LB 1388; Brij Bala V. State of H.P., (1984)2 SLR 408;)

181. Women's access to employment is to a large extent a function of their access to education and skills. The Government has introduced various vocational training facilities for women. Over the years these training facilities for women have been expanded and diversified. There are 154 Women ITIs/ITCs (vocational training centres) and 129 women's wings in General ITIs, which specifically cater to the vocational training needs of women. In addition, a National Vocational Training Institute for Women at NOIDA in Uttar Pradesh and six Regional Vocational Training Institutes for Women at Bombay, Bangalore, Calcutta, Hissar, Trivandrum and Tura provide facilities for training in a three-tier system, namely, basic skills, advanced skills and instructional training in selected trades having high employment potential. Part-time, short term and ad hoc courses are also organized by these institutes as per the needs of local industries. Some courses are also organized for benefit of housewives and others in trades like repair and servicing of common domestic appliances, hair and skin care, dress-making etc. To keep pace with the changing technological environment, the training activities are being diversified to include training in new non-conventional areas like Agricultural Draftsmanship, Desk Top Publishing, Fruit and Vegetable Preservation etc. The Women's Cell in

the Directorate General of Training and Employment functioning since 1974 has been entrusted with the work of planning, monitoring and coordinating the women training activities in the country. The number of ITIs for women and Women Wings in the general ITIs in different States is given in the table below:

Women ITIs/ITCs/Wings under the State Sector (As in August 1994)

State/UT	No. of Existing Government ITIs	Women's wing in General ITIs/Private ITIs	Total	No. of Seats sanctioned	
Assam	2	-	2	96	(P)
Andhra Pradesh	23	2	25	3139	
Arunachal Pradesh	1	-	1	48	(P)
Bihar	7	-	7	608	
Chandigarh	1	-	1	368	
Delhi	3	24	27	2168	
Gujarat	-	11	11	904	
Haryana	2	40	42	2592	
Himachal Pradesh	15	-	15	816	
Jammu & Kashmir	-	20	20	848	(P)
Karnataka	17	-	27	1816	
Kerala	8	4	12	992	(P)
Lakshadweep	-	1	1	16	
Manipur	1	-	1	64	
Meghalaya	1	-	1	64	
Madhya Pradesh	15	-	15	1344	
Maharashtra	15	13	28	2352	
Nagaland	1	-	1	48	

Orissa	12	2	14	1152	
Punjab	45	8	53	4694	(P)
Pondicherry	2	-	2	196	
Rajasthan	10	8	18	704	
Tamil Nadu	10	20	30	2032	
Tripura	1	1	2	112	
Uttar Pradesh	5	57	62	4988	(P)
West Bengal	7	6	10	448	
TOTAL	**189**	**211**	**400**	**32609**	

(P) = Provisional Figures

182. A six year vocational training project has been launched with assistance of the World Bank for quality upgradation and modernization of vocational training. This scheme envisages expansion and strengthening of the net work of women ITIs and Regional Vocational Training Institutes for vocational training of women; diversification of training programmes including introduction of hi-tech and self-employment oriented courses; strengthening of the apprenticeship programmes; establishment of new women ITIs; introduction of new trades in existing women ITIs and hostels for women ITIs. It is expected that the project is to supplement the efforts to expand and diversify training facilities, specially for women and upgrade and reorient the quality and content of vocational training in general to cater to emerging needs of the economy.

Equal Remuneration

183. The Equal Remuneration Act (hereinafter referred to as the Act) seeks to ensure equal remuneration to men and women workers in an establishment doing the same work and work of similar nature. The Act covers all workers employed in any establishment or employment irrespective of its size or nature. In order to ensure that the guarantee of equal remuneration does not result in the general lowering of the wages for the male and female employees, it has been provided in the Act that the employer can not reduce the rate of remuneration of any worker to ensure compliance with the legal provisions regarding equal remuneration. In fact, in such a situation, the higher of the remuneration is payable in case there is a discrimination on account of the payment of wages between men and women workers.

184. To ensure that guarantee of equal remuneration may not lead to a policy of refusing employment to women or affecting their further promotions and other conditions of service, the Act prohibits discrimination against women in matters of employment. This prohibition is not restricted to initial recruitment, it also extends to any condition of service subsequent to recruitment or transfer except in places where the employment of women in such work is prohibited or restricted by any other law in force.

185. The Act defines `same work or similar nature of work' as work in respect of which skill, efforts and responsibility required are same, when performed under similar working conditions by a man or a woman and the differences, if any, between the skill, effort and responsibility required of a man and those required of a women are not of practical importance in relation to the terms and conditions of employment. It is felt that this definition cannot fully prevent discrimination against women as the words `skill, efforts and responsibility' can have a very subjective content. Therefore there is a need to have more specific guidelines relating to job evaluation to prevent circumvention of the provisions regarding equal remuneration.

186. Attempts to categorize differently the work being performed by men and women workers to justify lower wages paid to women workers has been held to be violative of the provision of the Act. In a case where a lady Stenographer was receiving lower wages than the male stenographer. (Mackinon Macenzie v. Audrey D'costa, (1987)2 SC 469) the Supreme Court has held that there was practically no difference between the work which the confidential lady stenographers were doing and the work of their male counter-parts. Therefore, when the lady stenographer had received less payment than the payment received by the male stenographers for the same and similar nature of work, the employer would be said to have committed the breach of the provisions of the Act.

187. The Court held that in deciding whether the work is the same or broadly similar, the authority should take a broad view; next, in ascertaining whether any differences are of practical importance, the authority should take an equally broad approach as the very concept of similar work implies difference in details, but these should not defeat a claim for equality on trivial grounds. It should look at the duties actually performed, not those theoretically possible.

188. To strengthen the enforcement of the Act, voluntary organizations (in addition to the inspecting staff) have been authorized to file complaints regarding violations of the Act. In addition the court of a Judicial Magistrate can suo moto take cognisance of an offence punishable under the Act. Most of the States of India have appointed competent authorities under the Equal Remuneration Act and have also set up Advisory Committees under the Act. Annual reports are called for by the Central government from the State Governments in order to monitor implementation of the Act. In many cases, however, the responses from the State levels are not satisfactory. The available data from 1985 onwards has been compiled and reproduced below :

Position of Implementation of Equal Remuneration Act

	No. of Inspections	No. of Violations Detected / Rectified	No. of Prosecutions	No. of cases disposed of
States/UTs @	2,30,714	13,889	9,870	9,96,442
Central Sphere @@	24,301	25,705	26,985	5,96,43,317
	No. of Convictions	**No. of Acquittals**	**No. of Cases**	**No. of Claims Withdrawn certificate cases filed**
States/UTs	410	01	03	287
Central Sphere	3,274	42	01	12

@ Figures relate to the period upto 1992-93 only.
@@ Central Sphere figures are cumulative upto 31.12.1993
Source : Women's Cell, Ministry of Labour and Chief Labour Commissioner (Central).

Social Security Measures

189. The labour legislation in India attempts to provide social security measures to women including in the case of death of a worker during employment or on her retirement after completion of the prescribed span of service. The schemes introduced through various enactments ensure the flow of a lump sum amount to a worker on her retirement, and to her family, in case she dies while in employment. These provisions are contained in the Employees' Provident Fund and Miscellaneous Provisions Act, 1952, and the Payment of Gratuity Act 1972. The former enactment contains three schemes - Provident Fund, Family Pension Schemes and the Deposit-Linked Insurance Scheme; while the latter provides for payment of gratuity. These provisions are applicable to male and female workers equally.

190. Under these schemes a worker is required to become a member of these schemes and contribute a certain fixed percentage of her basic wages to these funds. The employer is also required to contribute the same amount as is contributed by the employee. The employee can draw advance from the funds for various purposes. Final withdrawal of the full amount is permissible on retirement from service or on attaining a certain age. In addition it can be withdrawn on retirement on account

of permanent and total incapacity to work, termination of services etc.

191. Provision for payment of gratuity has been made in the Payment of Gratuity Act, 1972. This Act is applicable to every factory, mine, plantation, port, railway, company, shop and establishment employing ten or more persons. An employee who has completed a continuous service of not less than five years is entitled to get gratuity on termination of his employment on any of the following grounds:-

(a) Superannuation, or
(b) retirement or resignation,
(c) death or disablement due to accident or disease.

192. The condition of five years on continuous service does not apply to a case where the termination of the employment has taken place by reason of death of an employee.

193. The Employees State Insurance Act 1948 confers certain benefits to employees in industrial establishments and other employments to which the Act has been made applicable. Under this Act the employers and the employees are required to make a prescribed nominal weekly contribution in return for which the employees become entitled to the sickness benefits, disablement benefits, medical benefits, dependent's benefits and maternity benefits.

194. The Workmen's Compensation Act, provides for payment of compensation for death or injuries-permanent disablement or partial permanent or temporary disablement-as given in the Schedule to the Act in the course of work. The only condition is that the injury or death should occur during the course of employment and no claim of compensation has been preferred before a Court. Compensation is payable in cases of the enumerated occupational diseases at the prescribed rates.

195. Women constitute a significant part of the work-force of India. A profile of women in the work-force of the country, bringing out the gender differential is presented below:

Profile of Women (Relative to Men) in the Work-Force of India@

	MALE	FEMALE	TOTAL
Total Population (excluding the State of Jammu & Kashmir) (Millions)	435	403	838
Total Work-Force (Millions)	224	90	314
Work Participation Rate	51.56%	22.73%	
Unemployment Rate (1987-88)	5.50%	7.60%	
Employment in Urban Areas (1987-88)	24.70%	13.50%	
Employment in Rural Areas (1987-88)	75.30%	86.50%	
Self-Employment (1987-88)	53.80%	53.10%	
Regular Salaried Employment	18.00%	8.30%	
Casual Wage Employment (1987-88)	28.20%	38.60%	
Annual Rate of Growth of Employment (1977-78 to 1987-88)	1.90%	1.95%	
Annual Rate of Growth of Employment of the educated (1977-78 to 1987-88)	6.07%	8.58%	

@ Population and Work-force figures are based on 1991 census, other data are based on the figures of the National Sample Survey Organization (NSSO).

196. The data in the above table bring out clearly that women continue to lag behind men significantly in terms of level and quality of employment. An important factor, however is that the rate of growth of employment of women, (particularly of the educated) is higher than that of men. Women's work participation rates widely differ from State to State as shown in the following table.

State/Union Territories According to Levels of Female Work Participation Rates

10 - 20 %	20 - 30 %	30 - 40 %
Andaman & Nicobar	Daman & Diu	Andhra Pradesh
Bihar	Goa	Arunachal Pradesh
Chandigarh	Gujarat	Himachal Pradesh
Haryana	Karnataka	Madhya Pradesh
Kerala	Orissa	Maharashtra
Pondicherry	Rajasthan	Meghalaya
Tripura		Manipur
Uttar Pradesh		Nagaland
West Bengal		Tamil Nadu
Other States/UTs : Less than 10%		

Source : Registrar General, Census

197. As brought out in the above table, majority of women workers are employed in the rural areas. Amongst the rural women workers, 87% are employed in agriculture as labourers and cultivators. Amongst the women workers in urban areas, about 80% are employed in unorganized sectors like household industries, petty trades and services, building construction etc. Women comprise only 15.3% of the total organized sector employment in the country. About 86% of the women in the organized sector are employed in community, personal and social services (56%), manufacturing (17%) and agriculture and allied occupations (13%). In factory, mine and plantation establishments, women workers constitute, 10%, 7% and 52% respectively of the total workers.

198. The International Labour Organization's special concern for protection of women workers, indicated in its various Conventions has been reflected in the Indian Labour Laws. Article 39 (e) of the Indian Constitution enjoins the State to protect the health and strength of workers, men and women and ensure that the citizens are not forced by economic necessity to enter avocations unsuited to their age or strength. Further Article 42 directs the State to make provision for securing just and humane conditions for work.

199. In line with these directives special clauses in various labour laws provide for the protection and welfare of women workers in factories, mines, plantations and shops and commercial establishments. A list of protective legal provisions for promoting the employment of women is given in the table below:

Employment of Women - Protective Legal Provisions

S.No.	Name of Enactment	Protective Provisions
1.	The Beedi & Cigar Workers (Condition of Employment Act, 1966)	- Provision of creches for the benefit of women workers
2.	The Plantation Labour Act, 1951	- Women workers to be provided time off for feeding children.
3.	The Contract Labour (Regulation & Abolition) Act, 1970	- Not to be required to work beyond 9 hours between 6 AM and 7 PM - with the exception of mid-wives and nurses in plantations.
4.	The Inter State Migrant Workmen (Regulation of Employment and Condition of Service) Act, 1979	- Separate toilets and washing facilities to be provided.
5.	The Factories Act, 1948	- In factories, women not to be engaged for cleaning, lubricating or adjusting an part of prime or transmission machinery; maternity leave upto 12 weeks with wages to be provided.
6.	The Mines Act, 1952	- Employment in mines below ground prohibited.
7.	Maternity Benefit Act, 1961	- Maternity benefits to be provided on completion of 80 days working. - Not required to work during six weeks immediately following the day of delivery or miscarriage. - No work of arduous nature; long hours of standing likely to interfere with pregnancy/normal development of foetus; or which may cause miscarriage or is likely to affect health to be given for a period of one month immediately preceeding the period of six weeks before delivery. - On medical certificate, advance maternity benefit to be allowed. - Rs. 250/- as medical bonus to be given when no pre-natal confinement and post natal care is provided free of charge.

8.	**Equal Remuneration Act, 1976**	**- Payment of equal remuneration to men and women workers for same or similar nature of work protected under the Act.** **- No discrimination permissible in recruitment and service conditions except where employment of women is prohibited or restricted by or under any law.**
9.	**Employees' State Insurance (General) Regulation, 1950**	**- Claim for maternity benefit becomes due on the date the medical certificate is issued for miscarriage, sickness arriving out of pregnancy, confinement or premature birth of child.**
10.	**Beedi Workers Welfare Fund Act, 1976**	**Appointment of a women member in Advisory Committee and Central Advisory Committee is mandatory under these Acts.**
11.	**Iron Ore Mines, Manganese Ore Mines and Chrome Ore Mines Labour Welfare Fund Act 1976.**	
12.	**Lime Stone and Dolomite Mines Labour Welfare Fund Act,1972.**	
13.	**Mica Mines Labour Welfare Fund Act, 1946.**	

200. The Factories Act 1948 prohibits women's employment in any part of a factory in where a cotton opener is at work. They are not allowed to clean, lubricate or adjust heavy machinery while it is in motion. They are not allowed to handle excessively heavy weight. Both the Factories and the Mines Act 1952, authorizes the appropriate Government to fix the maximum load that can be lifted, carried or, moved by women. The State Government may also prohibit or restrict women's employment in any other operation which exposes them to a serious risk of bodily injury or disease. The Mines Act prohibits employment of women underground. The Central Government is authorized `to prohibit, restrict or regulate the employment of women in any class of mines or particular kinds of labour which may result in danger to the life, safety or health of women workers'.

201. The Factories Act, the Plantations Labour Act 1951, the Mines Act and the Bidi and Cigar Workers (Conditions of Employment) Act 1966 prohibit employment of women between 7 p.m. and 6 a.m. In the case of mines and factories, the Central and the State governments respectively are authorized to relax this restriction upto 10 p.m. In the case of fish canning and fish-curing factories, the state governments are empowered to permit the employment of women during night for a period not exceeding three years at a time, if it is considered essential to prevent any damage to raw material. In plantations also they can be employed during the prohibited period with permission from the state governments. However, in both the cases, the hours of work should not exceed the prescribed period.

202. The Maternity Benefit Act prohibits discharge or dismissal of a women during the maternity leave or on account of such absence. It also prohibits varying of conditions of service of such women

to her disadvantage. Any such discharge or dismissal of women during or on account or her absence from work has been made punishable with imprisonment and fine.

203. The Indian Courts have time and again struck down rules which placed restriction on employment of married women or required unmarried women to resign on marriage. It has been held that the decision to work or not to work is a personal matter and the state can not impose any riders on it. Any rule which forbids or restricts the employment of married women discriminates on the basis of sex which is prohibited by Article 16 of the Constitution. (Bombay labour union v. International Franchises Pvt. Ltd, AIR 1966 SC 1942; Muthumma v. Union of India, AIR 1979 SC 1868; Air India v. Nergeesh Mirza, AIR 1981 SC 1829;)

204. The Maternity Benefits Act 1961 regulates the employment of women in certain establishments for a certain period before and after the child birth and provides for maternity benefits and certain other benefits. This Act extends to factories, mines, plantations and such establishments where persons are employed for the exhibition of equestrian, acrobatic and other performances. Its provisions have been recently extended to shops and establishments where ten or more persons are employed.

205. Under this Act a woman, who has worked in an establishment for 80 days in the 12 months immediately preceding the date of her delivery, is entitled to avail maternity benefits for a maximum period of twelve weeks of which not more than six weeks can precede the date of her expected delivery. The maternity benefit consists of payment at the rate of average daily wage for the period of a actual absence. In addition a women is entitled to prescribed medical bonus if no free pre-natal/post-natal care is provided by the employer.

206. The Act makes a provision for providing two nursing breaks of prescribed duration to women in addition to the intervals of rest provided to her till the child attains the age of 15 months. No deduction in the wages can be made for the reason that a women is allowed breaks for nursing the child.

207. A woman suffering from any illness arising out of pregnancy, delivery, premature birth of child is entitled to additional leave for a maximum period of one month.

208. The provision for maternity benefits is also included in the Employees State Insurance Act.

209. In order to provide maternity benefits to large mass of unorganized and self-employed women workers, certain schemes have been introduced at the Central, State and local levels. Under the Bidi and Cigar workers Act, 1966 maternity benefits are available to home-based workers also. The schemes of maternity benefit to women agricultural workers are being implemented by States like Andhra Pradesh, Karnataka, Kerala and Gujarat. Recently the Central Government has

announced a scheme under which all women workers can claim maternity benefits for first two live births of their children.

210. The Government of India recognizes that provision of maternity benefit is the most crucial element which affects the women workers therefore it is doing its utmost to extend the maternity benefits to all women.

211. The need for child care services for working women is a fundamental requirement. The Government recognizes that such services are necessary not only as a support service for the mother but also for the all round development of the child. In India, existing child care services can be grouped under three categories namely; statutory, voluntary and public.

212. In the organized sector there are certain laws which enjoin the employer to make provision for creches if a certain number of women are employed in their establishments. These are the Factories Act 1948, Plantation Act 1957, Mines Act 1952, Contract Labour Act 1970 and the Inter-state Migrant Workers Act 1980.

213. In the Voluntary sector, the Government of India through the Central Social Welfare Board and other large NGOs provide assistance to voluntary agencies to run child care services for poor women in the unorganized sector. It caters to about ten thousand creches covering approximately 25 million children under the age of five years. These creches are created mostly in the urban and semi-urban areas. The Government has recently contributed a National Creche Fund in order to expand the network of creches in the country.

214. In the public sector, the Integrated Child Development Services provides a package of services like supplementary nutrition, immunization, health check up and referral services for the children under the age of six years and for expectant and lactating mothers. This scheme focusing on the all round development of the pre-school child is also one of the largest schemes in the world today providing part-time creche facilities to children in rural and tribal areas and in slums.

215. The Government recognizing that child care is an important and essential support service in women's employment and development, is endeavouring towards making available the provision of these services universally to all women. In fact formal orders to this effect have already been issued.

216. Under the Maternity Benefit Act a woman can request her employer to relieve her from any work which is of an arduous nature or which involves long hours of standing, or which in any way is likely to interfere with her pregnancy or normal development of the foetus, or is likely to cause her miscarriage or otherwise to adversely affect her health. The employer is obliged to accede to this request and no deduction from the normal and usual wages of a women entitled to maternity benefit shall be made by reason of the change in the nature of work requested by such a women. Also as

mentioned above, the State Governments under the Factories Act is entitled to restrict the employment of women from any work which may expose them to serious risk of bodily injury, poisoning or disease.

217. The Government is committed to evaluate the impact of protective legislations on employment of women and revise or amend its laws in the light of available scientific and technological knowledge.

Article 12

218. India is a signatory to the Alma Ata declaration of 1978 and is committed to achieve the goal of Health for All by 2000 A.D. The National Health Policy (1983) reiterates India's commitment to the target of "Health for All by 2000 A.D." Accordingly a vast network of institutions at primary, secondary and tertiary levels has been established. The primary health care system, which is one of the largest in the world consists of one Sub-Health Centre for every three to five thousand population, a Primary Health Centre for every twenty to thirty thousand population and a Referral Centre called Community Health Centre for every 80 to 120 thousand population. About 22,476 medical and 2,79,086 paramedical staff operate the primary health structure in rural India. In urban areas, it comprises a network of hospitals, dispensaries and urban health posts etc.

219. India is also committed to attaining the goal of Net Reproduction Rate of unity by the year 2000. Universal access to comprehensive primary health care services and to family planning and maternal and child health services have been accepted as the main instruments for achieving these goals. The National Health Policy approved by Parliament in 1983 enunciates the broad policy framework for attaining these goals and also defines the specific targets to be achieved under particular indicators of health and family planning. These goals and targets and the current levels of achievement are given in the table below:

Goals for Health and Family Welfare Programmes in terms of 'Health for All' by 2000 AD

Sl. No.	Indicator	Current Level	Goals		
			1985	1990	2000
(1)	(2)	(3)	(4)	(5)	(6)
1.	Infant Mortality Rate				
	Rural	102 (1988)	122		
	Urban	61 (1988)	60		
	Combined	94 (1988)	106	87	below 60
2.	Perinatal mortality				
	Crude Death	50.1 (1987)			30-35
2(a)	Crude Death Rate	10.9 (1988)	12	10.4	9.0
3.	Pre-school child (1-5 yrs.) mortality	24 (1976-77)	20-24	15-20	10
4.	Maternal Mortality Rate	4-5 (1976)	3-4	2-3	below 2
5.	Life expectancy at birth (years)				
	Male	60.6 (1991-96)	55.1	57.6	64
	Female	61.7 (1991-96)	54.3	57.1	64

6.	Babies with birth weight below 2500 gms.(percentage)	30	25	18	10
7.	Crude Birth Rate	31.3 (1988)	31	27.0	21.0
8.	Effective Couple Protection (%age)	39.9(March,88)	37.0	42.0	60.0
9.	Net Re-production Rate (NRR)	1.48 (1981)	1.34	1.17	1.00
10.	Growth Rate (annual)	2.12 (1987)	1.90	1.66	1.20
11.	Family Size	4.4 (1975)	3.8		2.3
12.	Pregnant mother receiving ante-natal care (per cent)	60 (1988)	50-60	60-75	100
13.	Deliveries by trained birth attendants (%)	40-50 (1988)	50	80	100
14.	Immunization Status* (%) coverage TT (for pregnant women)	69.9 (1989-90)	60	100	100
	TT (for school children) 10 yrs.	58.9 (1989-90)	40	100	100
	DPT (children below 3 years)	98.6 (1989-90)	70	85	85
	Polio (infants)	98.2 (1989-90)	50	70	85

	BCG (infants)	106.8 (1989-90)	70	80	85
	DT (new school entrants 5-6 yrs.)	76.9 (1989-90)	80	85	85
	Typhoid (new school entrants 5-6 yrs.)	62.6 (1987-88)	70	85	85
15.	Leprosy-percentage of disease arrested cases out of those detected *	24 (1989-90)	40	60	80
16.	TB percentage of disease arrested cases out of those detected	65 (1989-90)	60	75	90
17.	Blindness-Incidence of (%)	1.4 (1987-88)	1	0.7	0.3

* Cases cured after 1983, out of the 4 million estimated leprosy cases

Source : Govt. of India, Ministry of Health and Family Welfare, Statement on National Health Policy, New Delhi, 1982.

220. The health of Indian women is intricately related to the socio-economic status of the households to which they belong and their age and kinship/marital status within the households. Given the predominantly patriarchal set-up, women and girls get a lesser share in the intra-household distribution of health goods and services, compared to men and boys. However in the intra-household distribution of labour, women get the major share of economic, procreative and family responsibilities. As a result of the competing demands on their time and energy, as well as their socialization, women tend to neglect their health. The lesser access to food within the household coupled with this neglect invariably leads to poor nutritional status and a state of ill health for women of poor families, with serious inter-generational implications via low birth weight babies etc.

221. Maternal deaths constituted 1.1% of the total reported deaths in 1990. The Maternal Mortality Rate (MMR) for India despite the inavailability of clear and updated figures, has been estimated as 340 per 1,00,000 births which is very high. Further, it is estimated that in India, 15%

of deaths among women in the reproductive age group (15-44 years) are maternal deaths. The specific causes of maternal deaths show that bleeding and anaemia are the two major causes of death followed by abortion and toxaemia. Severe anaemia is one of the important reasons for abortions, premature births and low birth weight of babies.

222. The causes of death (1990) data for rural areas show that infant deaths are maximum under the category of disorders of the respiratory system. Although Infant Mortality Rate (IMR) is higher for females under all major causes of death, the sex differences in mortality is highest for the 1-4 years age group. Causes such as accidents and injuries, fevers and digestive disorders rather than diseases of the nervous system or the circulatory system are mainly responsible for the high female child mortality. This clearly indicates that rather than congenital diseases, the diseases related to living conditions and negligence are the causes of female child mortality.

223. The concern for the reduction of MMR and IMR by the Government dates back to the Bhore Committee Report (1943) and the Mudaliar Committee Report (1961) which laid emphasis on nutrition, health education, maternal and child health, among other health issues. The Bhore Committee identified children, specially in the first year of life, old people and women during their reproductive ages, as specially vulnerable groups in the community.

224. The Maternal and Child Health Programmes (MCH) outlined in the various Five Year Plans are based mainly on the principles enunciated by the Bhore Committee.

225. According to estimates, for every maternal death, 13 to 100 women face severe life threatening complications. Systematic data on the morbidity conditions of women are not available. Some micro studies indicate high rates of morbidities among women which go under-reported. General, sgynacological morbidities, contraception use, sterilization, menstruation, menopause, the incidence of cancers of the breast and reproductive organs and occupational health hazards need to be systematically studied. Much of women's morbidities are treated as `normal' and are often attributed to the female biology. The concomitant secrecy associated with much of women's morbidities conceal their actual incidence and also prevent effective intervention.

226. The Child Survival and Safe Motherhood (CSSM) Programme launched in August 1992 underlines the high priority accorded by the Central and State Governments to the various programmes for improving the health status of women and children and the reduction of maternal, infant and child morbidity and mortality rates. The CSSM programme is directed at achieving nine of the 17 goals of the National health Policy (1983) which are related to maternal and child health. The interventions for reducing morbidity and mortality in children include newborn care, immunization, oral rehydration therapy, treatment of pneumonia, and Vitamin A prophylaxis, TT immunization, prevention and treatment of anaemia, promotion of institutions for maternal care, treatment of maternal complications, management of obstetric emergencies and promotion of birth spacing.

227. The Programme addresses the major causes of morbidity and mortality in women and children which are preventable by readily available and cost-effective interventions. Many of these interventions are on-going under the Maternal and Child Health (MCH) Programme but are being integrated, coverage levels increased and quality of services improved through supply of additional equipment, regular supply of essential drugs and retraining of medical and paramedical personnel. Strengthening the care for the new born and emergency abstetric services are the new thrust areas. The access established under the immunization programme is being utilized to extend and intensify other requisite services.

228. Though the proportion of trained attendants at birth is increasing, the majority of domiciliary births are attended by the traditional "dai" (birth attendant) especially in the rural and tribal areas. Recognizing the role of traditional "dais", the "Dai Training Scheme" has been in operation for more than a decade to modernize traditional maternal care and delivery techniques. Strengthening the role of the Auxiliary Nurse Midwife (ANM), the lady Health Visitor (LHV) and the Multipurpose Health Worker in the health system are also important.

229. An extensive network of over 2000 Community Health Centres, 22,000 Primary Health Centres and 131,000 village level sub-centres has been set up to provide primary health care, including maternal and child health care and family planning services at the grass root level. Recognizing the need to provide quality services, emphasis has been laid on training of medical and paramedical functionaries deployed to manage the institutions set up under the health care system. The ready accessibility to health care facilities will enable the women to seek health care.

230. It is recognized, however, that the lack of female medical officers in the peripheral health institutions is a detriment to women seeking early treatment for reproductive tract infections and sexually transmitted diseases. The Government of India is actively considering a project for the strengthening of treatment facilities for reproductive tract infections and IEC activities for dissemination of information on sexuality and reproductive health to women and adolescents. The need for interpersonal communication has been clearly recognized. Village level women's health groups named "Mahila Swasthya Sanghs" are being organized rapidly.

231. It is currently estimated that there may be one to two million HIV infected persons in India, of whom at least one third are women. The National AIDS Control (NACO) Programme has been launched with the objectives of prevention of sexual, perinatal and parenteral transmission of HIV infection (through the social and economic impact of HIV infection) by timely intervention. Intervention strategies include counselling, screening and provision of appropriate health care to high risk women, health education and popularizing the use of condoms to reduce sexual transmission, screening of blood prior to transfusion, sterilization of medical equipment and infection control measures in health facilities.

232. Efforts have been made to develop linkages between NACO and the Family Welfare

Programme. One of the steps in this direction is the upgradation of the quality of the condoms to make them suitable for the dual function of AIDS control and contraception. The social marketing of condoms to improve accessibility is another important measure. While it will not be cost effective or operationally feasible to undertake routine screening of all pregnant women and infants for HIV infection, medical and paramedical personnel are being trained to recognize people at risk and to recognize and to treat sexually transmitted diseases.

233. It is important to remember, however, that women's ability to protect themselves from HIV/AIDS depends to a large extent on the partner's acknowledgement of the need for such protection and the consistent use of protective measures. Studies indicate that the power relation between sexual partners is unfavourably tilted away from women, who have very little control over the sexual relationship, including the frequency and the type of sex and the contraceptives to be used.

234. Research data indicates a decline in fertility rates with women's development and economic advancement. Women acknowledge the need for contraception and limiting the number of pregnancies. However, their utilization of these services depends on several inter-related factors. These are low decision-making power in the family, especially in the early years of marriage, poor health, high pregnancy wastage, social pressures against contraception before completion of the desired family size, general preference for sons and secondary infertility etc. The safety and efficacy of various methods of contraception, the quality of delivery and follow up are other major issues to be attended to. Women can exercise reproductive choices only after they acquire control over their sexuality and life situations.

235. The National Family Planning Programme was launched in 1951 and its objective was to reduce the birth rate to the extent necessary to stabilize the population at a level consistent with the requirements of the national economy'. The family planning programme is purely voluntary. In keeping with the democratic traditions of the country, it seeks to promote planned parenthood through voluntary and free choice of family planning methods, best suited to the individual acceptors. Couple protection rates are sought to be increased by health education and by improving the accessibility and reach of family planning services. Male and female sterilization, intra-uterine devices (IUDs), oral pills and condoms are currently available in the National Programme.

236. The Family Welfare Programme has recorded some achievements since its inception in 1951. The crude birth rate has declined from 41.7 in 1951-61 to 28.5 in 1993; the infant mortality rate has declined during the same period from 146 per thousand live births to 74 and the total fertility rate has come down to 3.6 in 1992 from a level of over 6 in the fifties. The level of couple protection rate has increased from 10.4 percent in 1970-71 to 43.5 percent at the end of March, 1992. It is estimated that 168 million births have been averted on account of the programme.

237. Sterilization has been an important method in the family planning programme in India. Its importance, however, has been declining over the years. The contribution of sterilization to the

annual family planning acceptors has come down from 32.9% in 1975-76 to 15.8% in 1991-92. Sterilization at present is largely confined to women. The proportion of tubectomies to total sterilization has increased from 10.4% in 1967-68 to 95.7% in 1991-92.

238. To popularize male sterilization, a new simpler method of performing vasectomy - "No Scalpel Vasectomy" - has recently been introduced.

239. Over-emphasis on terminal methods in the past, inadequate counselling and follow-up services for promotion of spacing methods and logistical problems related to their supplies have constrained adoption of contraceptive methods by younger couples. This is being increasingly rectified. The aspects planned for :

- stepping up research activities to introduce new contraceptives and improve the quality of contraceptives with a view to providing a larger basket of contraceptives to facilitate informed choice by the acceptors at different stages of their reproductive life cycles,

- strengthening logistical management of distribution of contraceptives and enlarging their production base,

- improving client-counselling and follow-up care, and

- Dropping - on a pilot basis - target oriented approach to population control.

240. An integrated IEC (Information, Education and Communication) strategy which is comprehensive, community based and target-specific has been evolved and the approach has been recently re-oriented so as to broad-base the information and dissemination channels laying stress on inter-personal communication, while simultaneously utilizing the mass media approach. The IEC strategies will also increasingly focus on quality of life issues and responsible parenthood, and not just on adoption of contraception, decentralized production and dissemination of material to cater to the specific local needs.

241. Support of the voluntary and corporate sector are being sought for creating awareness and promoting the small family norm. Their active involvement in the Programme is sought to be achieved through wider dissemination of the various schemes under which financial assistance is available to among others non-governmental organizations. Relevant procedures have been simplified. Allocation of funds has been increased substantially for Rs.51 million in 1992-93 to Rs.96 million in 1995-96. In 1994-95, over 800 NGOs collaborated with the Government of India in family planning and population control activities and received grants. Workshops were also organized to discuss issues of interest and common problems. Securing greater involvement of and more active participation of village Panchayats, women and youth organizations, private medical practitioners, organized sector and cooperative institutions, is a thrust area.

242. A summarized view of the demographic and health profile of India is provided below:

Population

243. The 1991 Census counted 407.1 million females against the male population of 439.23 million constituting less than half (48.09 percent) of the total population of India (846.30 million). Female population grew at a slower pace of 23.37 per cent during the decade 1981-91 against a decadal growth rate of 23.85 per cent of the total population.

Table-I

Population Trends, India

Census Year	Persons	Males	Females	Decadal Variaton	Sex Ratio
1901	23,83,96,327	12,07,91,301	11,73,58,672		972
1911	25,20,93,390	12,83,85,368	12,37,08,022	0.56	964
1921	25,13,21,213	12,85,46,225	12,27,74,988	-0.31	955
1931	27,89,77,238	14,29,29,689	13,57,88,921	11.00	950
1941	31,86,60,580	16,36,85,302	15,46,90,267	14.22	945
1951	36,10,88,090	18,55,28,462	17,55,59,628	13.31	946
1961	43,92,34,771	28,62,93,201	21,29,41,570	21.51	941
1971	54,81,59,692	28,40,49,276	26,41,10,378	24.80	930
1981*	68,51,84,692	35,43,97,884	33,07,86,808	25.00	933
1991 @	84,63,02,688	43,92,30,458	40,70,72,230	23.85	927

* Includes the interpolated population of Assam where 1981 Census could not be held.
@ Includes the projected population of Jammu & Kashmir where 1991 Census was not held.

Source: 1. Census of India 1981-Series I, India, Part-II-A, General Population Tables. Registrar General and Census Commissioner, India, New Delhi.

2. Census of India 1991-Series I, India, Paper 2 of 1992, Final Population Totals, Registrar General and Census Commissioner, India, New Delhi.

Sex Ratio

244. The Sex-ratio which was 972 females per thousand males in 1901 has declined to 927 in 1991. The decline has been more or less steady over the decades, except for a marginal rise between 1941 and 1951 and a small rise, more recently between 1971 and 1981.

245. The adverse sex-ratio for females and its decline since 1901 is attributed mainly to higher mortality among females, as compared to males, in all age groups right from childhood through child-bearing ages. Limited access to the health infrastructure contributing to high maternal mortality and relative deprivation of the female child from nutrition, health and medical care were identified as some of the contributory factors. The sex ratio for women may, however, be seen against other indicators of falling mortality rates for both men and women, higher child survival rates and the improvement of life expectancy, which is more significant for women than for men.

246. The increase in the sex-ratio from 930 in 1971 to 934 in 1981 was expected to rise further in 1991. But in 1991 the sex-ratio declined to 927, a level lower than that of 1971. This trend was noticed in the sex-ratio for the 0-6 years age group population which declined from 976 in 1961 to 945 in 1991. Such a steep decline in the sex-ratio in the early ages of life in a short span of 30 years raises concern. It would appear that sex-ratio is declining even at birth. Further analysis would be possible only when the age distribution of the 1991 census become available.

247. The adverse sex ratio for women needs to be seen against other indicators of falling mortality rates for both men and women, higher child survival rates and the improvement of life expectancy, which is more significant for women than for men. The improving health care in India should contribute to a more favourable sex ratio for the country in the years to come. Among the factors that would remain to be resolved, however, would be the persistent preference for the male child. Between 1971 and 1991 female life expectancy overtook and crossed male life expectatncy after 50 years of being behind. Yet in the youngest age groups the adverse sex ratio declined further, influencing the adverse sex ratio. The spread of sex determination technology is another very serious concern. Although India has promulgated legislation to regulate such tests, its implementation is proving to be quite difficult.

Age structure of the Population

248. The 1991 age structure of female population shows a shift from the very high proportion of children into a higher proportion of adults in the working age group. The percentage of children in the age-group 0-14 years among females has declined from 39.8 percent in 1981 to 35.9 percent in 1991. Similarly, male children in 0-4 year age group have also declined during the decade. This is primarily due to decline in fertility and mortality rates, improved chances of child survival and the population of such showing the trend of growing from 'young' into 'adult' in demographic terms. On the other hand, the percentage of women in the working age group 15-59 years

shows a rise from 53.9 percent in 1981 to 57.8 percent in 1991 mainly due to the relative decline in child population. This also indicates a relative increase of women in the reproductive age group 15-49. The pattern of changes over the decade is similar for both males and females except in 60+ age group.

Table -II

Age Structure of Population by Sex during 1981 and 1991

Age Group	Percentage of Population			
	1981		1991	
	Female	Male	Female	Male
0-14	**39.8**	39.6	**35.9**	36.5
15-59	**53.9**	54.3	**57.8**	57.8
60+	**6.3**	6.1	**6.3**	5.7
Total	**100.0**	100.0	**100.0**	100.0

Source : i) Census of India, 1981, Series-I, India, Part-II, Special Report and Tables based on 5% Sample Data, Registrar General and Census Commissioner, New Delhi, India.

ii) Sample Registration System(SRS) - Fertility and Mortality Indicators 1991, Registrar General and Census Commissioner, New Delhi, India.

Source: 1. Census of India, 1981, Series-1, India, Part-II Special Report and Tables based on 5% Sample Data Registrar General and Census Commissioner, India, New Delhi.

2. Sample Registration System - Fertility and Mortality Indicators 1991, Registrar General and Census Commissioner India, New Delhi.

Life Expectation at Birth

249. The country has taken big strides in the first half of the 20th century towards eliminating famine and fighting communicable diseases and vaccine preventable diseases of early childhood that earlier took heavy toll of life. Consequently, the expectancy of life at birth has improved and mortality for almost all ages has declined sharply.

Table-III

Life Expectancy at Birth

(in years)

Year	**Female**	Male
1901	**23.96**	23.6
1951	**31.7**	32.5
1961	**40.6**	41.9
1970-75	**49.0**	50.5
1976-80	**52.1**	52.5
1981-85	**55.7**	55.4
1986-90*	**58.1**	57.7

Note :- Figures for years upto 1970 are based on census data. From 1971 onwards figures are based on Sample Registration System.

Source: 1. Life Tables 1961-71, Census of India, Registrar General and Census Commissioner, India, New Delhi.

2. SRS Based Abridged Life Table 1986-90, Occasional Paper No.1 of 1994, Registrar General and Census Commissioner, New Delhi

250. Life expectancy for females which was 23.96 years at the beginning of the century has risen to around 58.1 years during 1986-90. Life expectancy for females which was slightly higher than that for males in the first half of the century lagged behind between 1961 to 1980. Thereafter since 1981, female life expectancy rose fast to overtake that of males. During 1986-90 life expectancy was 58.1 years for females as against 57.7 for males.

Health, Nutrition and Mortality

251. The development of health facilities and establishment of Primary Health Centers in rural areas across the country during the fifties provided the much needed health services to the people. The packaging together of maternal care, ante-natal, prenatal and postnatal care of the mother and child, more intensive health care including special nutrition and immunization paid dividends. These measures contributed to further decline in mortality, bringing down the death rate to 19.0 during the decade 1961-71.

252. During the seventies, the Government of India took a number of steps to improve the health status of the population, especially women. Primary Health Centers(PHCs) and Sub-Centres were expanded throughout the country for better reach of health services. By September 1993, there were 21,000 PHCs, 131,000 sub-centres and 2,000 Community Health Centres (CHCs) having beds with specialist facilities.

253. During 1975-76, a major initiative of the Government was the launching of the Integrated Child Development Services (ICDS) Scheme. The coverage under the scheme has been increasing and by June, 1995, 17.81 million children and 3.82 million mothers were benefitting from the scheme.

254. As mentioned earlier, as a part of the overall strategy for improving the health status of women and children in the country and reducing the maternal infant and child mortality - a programme called Child Survival and Safe Motherhood (CSSM) was launched in 1992-93.

255. The impact of these special interventions have helped reducing the death rates for both the sexes. A significantly sharp decline may be noticed in the mortality/death rates amongst female children in the 0-4 age group from 55.1 in 1970 to 28.2 in 1992. The overall death rate of female population has also declined from 15.6 in 1970 to 9.7 in 1991 showing a slight rise to 10.2 in 1992. There is further decline to 9.3 in the overall death rate of the population in 1993.

Table - IV

Death Rates
(Annual Rate per 1000 population)

Year	0-4 Age Group		All Ages	
	Female	Male	Female	Male
1970	**55.1**	51.7	**15.6**	15.8
1985	**40.4**	36.6	**11.8**	11.8
1990	**27.9**	24.8	**9.6**	9.7
1991	**27.5**	25.6	**9.7**	10.0
1992	**28.2**	24.9	**10.2**	10.0

Source: Sample Registration System(SRS) - Fertility and Mortality Indicators for respective years, Registrar General and Census Commissioner, New Delhi, India.

256. These achievements in female health and mortality in the last decade are largely due to major interventions in the health sector. The immunization programme was universalized in a phased manner during the Seventh Five Year Plan period i.e. 1985-90. A Technology Mission mode was adopted to provide priority, urgency and better coordination. All the districts in the country were progressively covered by the programme by 1990. The reported coverage levels for 1993-94 was over 92 per cent immunization in each of the three antigens viz, DPT, OPV and BCG, 88 per cent in measles and 82 per cent in TT for pregnant women.

257. The immediate impact of the Technology Mission for immunization has been the sharp fall in Infant Mortality Rate (IMR) in the latter half of the 1971-81 decade both for female and male Children. The IMR for females has fallen from 131 in 1978 to 80 in 1992, while, IMR for males also shows a sharp decline from 123 to 79 during the same reference period. The IMR has had another sharp fall to 74 in 1993, for which the gender disaggregated rates are not yet available.

Table - V

Infant Mortality Rate (IMR)

Year	Females	Males	Persons
1978	131	123	127
1988	93	96	94
1989	90	92	91
1990	81	78	80
1991*	81	80	80
1992*	80	79	79

* Excludes Jammu & Kashmir

N.A. Not available as yet

Source: 1. SRS - Fertility and Mortality Indicators for respective years, Registrar General & Census Commissioner , India, New Delhi

2. SRS - Bulletin, 1995.

258. The National Plan of Action for the Survival, Protection and Development of children in pursuance of the World Summit on children and the Plan of Action for the Girl Child for the decade 1991-2000 being implemented during the decade are expected to further bring down the infant and child mortality rates for females.

259. The age-specific death rates for female Population declined for all age groups. Despite significant decline in mortality in overall population and simultaneous improvement in life expectancy at birth, there is still a high relatively proportion of deaths taking place amongst children of 0-4 years. The 0-4 mortality has been higher for female children during the eighties. Age-specific death rates also declined for males in almost all age groups but the decline in the case of females was greater. During 1979-81, female death rates were higher than male death rates for the younger age groups up to 30-34, whereas for the groups above 35 years a reverse trend is noticed. Due to the greater decline in female mortality during the decade by 1989-91, female death rates were higher than male death rates only upto age group 25-29 and beyond age 30 female deaths were lower. Further, the gap between male and female death rates at younger ages

upto 35-39 years is narrow while for ages beyond 40 years, the gap widened because of lower female death rates.

Table-VI

Three Year Moving Average of Age-Specific Death Rates by Sex

Age Group (in years)	Male		Female	
	1979-81	1989-91	1979-81	1989-91
0-4	41.0	26.3	44.8	28.9
5-9	3.4	2.4	4.2	3.0
10-14	1.7	1.4	1.7	1.5
15-19	1.9	1.7	2.8	2.5
20-24	2.4	2.4	3.7	3.2
25-29	2.4	2.7	3.9	3.0
30-34	3.6	3.2	3.8	2.8
35-39	4.8	4.0	4.5	3.4
40-44	6.8	5.5	5.5	4.1
45-49	9.4	9.0	7.4	5.9
50-54	14.9	13.3	10.8	9.0
55-59	23.2	20.7	17.2	14.0
60-64	35.5	31.6	28.4	23.2
65-69	52.3	47.1	41.2	37.6
70+	98.2	94.2	87.0	81.1
All Ages	12.4	10.0	12.7	9.8

Source : Sample Registration System, 1979 to 1991, Registrar General & Census Commissioner, India, New Delhi.

Age at Marriage

260. Traditionally attainment of puberty has played as an important role in determining the age at marriage for girls. By the age of 25-29 years, more than, 90 per cent of women were married in 1992. About 30 percent of the females who married at younger ages were still in their teens (i.e. 15-19 years).

Table - VII

Marital Status Distribution of the Population

(Percent 1992)

Age Group (in years)	Never Married			Married			W/D/S		
	F	M	T	F	M	T	F	M	T
0-14	98.7	99.6	99.1	1.3	0.4	0.8	0.0	0.0	0.0
15-19	69.7	91.2	81.2	30.1	8.8	18.7	0.2	0.0	0.1
20-24	24.3	59.4	42.2	74.8	40.2	57.2	0.9	0.3	0.6
25-29	7.6	26.7	17.4	90.3	72.5	81.1	2.1	0.8	1.4
30-34	2.7	9.2	6.1	93.6	89.3	91.4	3.8	1.4	2.6
35-39	1.2	3.6	2.4	92.7	94.4	93.6	6.1	2.0	4.0
40-44	0.6	1.9	1.3	89.5	94.8	92.2	9.9	3.3	6.5
45-49	0.4	1.4	0.9	84.0	93.7	88.9	15.7	5.0	10.2
50-54	0.3	1.2	0.8	75.6	91.5	83.8	24.1	7.3	15.4
55-59	0.3	1.0	0.7	64.4	88.7	76.9	35.3	10.2	22.4
50+	0.3	1.1	0.7	54.3	84.4	69.5	45.4	14.6	29.9
60+	0.2	0.9	0.6	37.5	77.6	57.2	62.2	21.5	42.2
All Ages	55.3	46.1	50.8	44.2	45.7	43.9	2.5	8.2	5.3

F-Female M-Male T-Total W/D/S- Widowed/Divorce/Separated

Source: Sample Registration System, Registrar General & Census Commissioner, India, New Delhi

261. The mean age at marriage for females which was around 13 years at the beginning of the century rose to 18.3 years by 1981. The mean age at 'effective marriage' for females was 19.5 years in 1992. The Child Marriage Restraint Act, 1976 was passed raising the minimum age at marriage of girls to 18 years from 15 years and for boys to 21 years to prevent child marriages, early marriage of girls and consequent early pregnancies curtailing fertility at young ages and birth of premature babies. Acquiring higher education and employment by women have also played a role in raising their age at marriage.

Table - VIII

Mean Age at Marriage by Sex 1901-91

Year	**Female**	Male
1901	**15.1**	20.0
1911	**15.2**	20.3
1921	**15.7**	20.7
1931	**12.7**	18.6
1941	**14.7**	19.9
1951	**15.6**	19.9
1961	**15.5**	21.3
1971	**17.2**	22.4
1981	**18.3**	23.3
1993	**19.6**	NA

Note:

1. Figures relate to mean age at marriage derived from Census data for all years upto 1981.
2. Figures for 1981 relate to India excluding Assam.
3. Figures for male age at effective marriage in 1991 Census is not yet available.

Source : Sample Registration System for respective year, Registrar General and Census Commissioner, India, New Delhi.

Fertility

262. The population of India has been growing at around 2 per cent or more per annum since the decade ending 1961. Despite the fall in birth rates, the growth rate continued to rise during the fifties and sixties and has remained above 2 per cent even upto the end of the last decade. The fall in birth rate was slower than the fall in death rate.

263. Though the National Family Planning Programme was launched in 1951, progress was slow in the initial years and the impact on reducing fertility was not very significant.

264. In the earlier decade of the century when fertility levels were very high, women unsure of child survival rate bore a very heavy burden of repeated pregnancies. Child-bearing and child caring started from an early age of 15 years and continued all through the reproductive span of life upto 45 years of age. Age at marriage was low and rarely did someone remain unmarried. Neonatal and Infant mortality were also very high resulting in a great deal of wastage in reproduction.

265. The crude birth rate (CBR) was very high, at 50 per thousand population, in the early part of the century. The pace of decline in birth rate has been relatively slow during the last two decades. It declined from 36.8 in 1970 to 28.7 in 1993. This pace of decline in birth rate was slower in urban areas.

Table IX

Birth Rates
(Annual Rate per 1000 population)

Year	Combined	Rural	Urban
1970*	36.8	38.9	29.7
1985	32.9	34.3	28.1
1990	30.2	31.7	24.7
1991	29.5	30.9	24.3
1992	29.0	30.7	23.1
1993	28.7	30.4	23.7

* Country's Birth Rate estimates excludes Bihar and West Bengal for the year 1970.

Note : Data for 1990 and onwards excludes Jammu & Kashmir

Source : SRS - Bulletins for respective years, Registrar General and Census Commissioner, India, New Delhi.

266. The age-specific fertility rates declined for women in all age groups between 1981 and 1991, but not uniformly. The decline was small for the peak fertility ages 20-29. The reduction in fertility rate was significant for the age groups above 30. The reduction at ages above 30 year were substantial for rural areas between 1981-91. This shrinking of the age span of fertility among urban women especially after 35 + years facilitated their joining other productive activities.

267. Total fertility rate declined from 4.5 births in 1981 to 3.6 in 1991 leaving much scope for further reduction.

Table - X.

Age-Specific Fertility Rates - 1981 and 1991

Age Group	1981			1991		
	Rural	Urban	Combined	Rural	Urban	Combined
15-19	98.2	58.1	90.4	84.5	46.1	76.1
20-24	261.3	195.0	246.9	244.6	200.7	234.0
25-29	244.9	187.0	232.1	202.3	158.7	191.3
30-34	180.4	117.8	167.7	128.6	81.6	117.0
35-39	112.6	60.1	102.5	75.9	37.4	66.8
40-44	48.4	24.5	44.0	35.3	14.9	30.6
45-49	22.0	9.1	19.6	14.0	5.3	12.1

Source: i. Sample Registration System, 1981 & 1991, Registrar General and Census Commissioner, India, New Delhi.

ii. Women in India: A Statistical Profile - 1988, Department of Women and child Development, Government of India, New Delhi.

268. The nutritional status of women especially that of the rural poor is far from what is desired. In spite of the prophylactic programmes against nutritional anaemia targeted at the expectant and lactating mothers, these women continue to suffer from acute anaemia. It has been pointed out that much wasting and stunting of growth takes place during the young ages and with early and multiple pregnancies women miss the opportunity of attaining full bodily growth. The low nutritional status of women in India applies to all the age groups but is more acute in the case of young girls, pregnant and aged women. While in the lowest socio-economic groups the low nutritional status of women is mainly due to poverty and the burden of family responsibilities, in the lower and middle income groups it is aggravated by general neglect and is the indirect result of stronger gender discrimination. It has been pointed out that the economic value of women to some extent determines their survival and this is evident from the fact that the landless tribal agricultural households where women's labour participation is higher, the sex ratio and the mortality differentials favour women.

269. Although there exists some nutritional data, the extent of poverty induced undernutrition in India is not exactly known. The normal trend-level shortfall in food intake in the poorer households is due to the seasonality of food availability. Food shortages become severe in the event of crop failure, drought and fluctuations in food prices. The rural poor, especially women and children, are thus worst affected in terms of poverty induced under-nutrition.

270. There are several Government programmes for remedying the trend of shortfall in food intake among the rural poor, with women and children as special target groups :

- the Public Distribution System,
- the Public Employment Programmes, and
- the Special Feeding Programmes.

271. Although the first two programmes are not aimed directly at improving the nutritional status of the people, they nevertheless have an impact on the nutritional status of the poor and the vulnerable groups.

272. The Government of India formulated a National Nutrition Policy (NNP) which was adopted by the Government in 1993. The policy states that, malnutrition being a multifaceted problem, requires a multipronged/multisectoral approach. It seeks to articulate nutritional considerations in all policy instruments highlighting direct and indirect nutritional interventions both short term and long term, with a special emphasis to improve the nutritional status of women and children.

273. One of the major interventions in the field of nutrition is the Integrated Child Development services programme (mentioned earlier in this chapter) which, started on a pilot basis in 1975 has now grown to be the world's largest child development programme covering over 17 million children and pregnant and lactating mothers. The government has recently issued orders expanding the programme to all parts of the country. This programme is very closely monitored in a gender disaggregated manner with special focus on the girl child.

274. The basic strategy that India has so far followed with respect to health has been a supply intensive policy with the emphasis on provision of infrastructure. Given the gender construct of Indian society this has not resulted in the necessary access and participation of women particularly in the rural areas. Women's access to health has continued to be severely constrained by cultural norms, time and distance considerations. The delivery system itself is highly fragmented with different sectoral departments seeking to provide compartmentalized services. The other problem is the strong bias in the system of medical education towards curative aspects and the tendency of doctors to gravitate towards urban areas where sophisticated arrangements for curative treatment exist.

275. There is now a realization that without the creation of demand from women for adequate

health services and their empowerment through awareness generation and mobilization, real access cannot be created. Real access also requires women's participation and involvement. The need is also for a clientele orchestrated convergence of services. The Government of India has launched a nation wide scheme for creating women's health groups in villages called Mahila Swasthya Sanghs where women can come together and discuss their problems with the local para-medical who is also generally a woman acting as a facilitator. Recently a scheme of mobilization, awareness generation and convergence of services called the Indira Mahila Yojana has been started, building on the ICDS scheme and similar initiatives in education and other sectors so that these village level groups can access existing social and economic services and the service providing agencies at the village level become accountable to the women's groups. The women's groups are being registered so that obtaining credit and other economic and social services becomes easy.

276. There is also an increasing appreciation in India that a target driven family planning programme with incentives and disincentives does not work. The emphasis is therefore now shifting to a strategy which tries to empower women through education, literacy, better access to MCH services and health facilities, access to information, income opportunities and awareness so that women can exercise informed reproductive choices along with men. Men are also being targeted for awareness raising as they are as much responsible as women.

277. A major concern today is the incidence of sex selection at birth through sex determination and foeticide and the incidence of female infanticide. Government has made a new law banning sex selection called The Pre Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act 1994. Rules for the implementation of the Act are also in place. Foeticide is an offence under the Indian Penal Code and Infanticide is tantamount to murder. The Government of India has conducted a nation wide survey to identify the pockets where these are being practiced and instructions have been issued to the enforcement authorities to be alert and apprehend culprits and prevent these occurrences. A system has been developed whereby crimes against women and girls are regularly reviewed at national and state levels with the highest levels of police administration.

278. The strong preference for male children and the consequent neglect of female babies is a matter of serious concern for the Government of India. The central and state governments have therefore made the girl child the centre of focus in Health, Nutrition, Education and Literacy programmes. A National Plan of Action for the Girl Child has been launched with specific decadal and mid-decadal goals to be achieved ensuring her survival, protection, development and participation. A high level national monitoring committee has been set up to oversee the implementation of the plan. In pursuance of this plan gender disaggregated monitoring of various programmes and indicators has been started, a law banning sex determination tests passed, several special advocacy efforts launched and a number of incentive schemes initiated in a many of states of India, such as Haryana & Tamil Nadu. The proposed National Policy for the Empowerment of Women , awaiting formal approval, has also given special focus to the girl child.

Article 13

Family Benefits

279. By law men and women have equal rights to all family benefits such as housing allowance, child and education allowances, travel allowance, etc. wherever they are applicable. The principle, however, is that where such a benefit is available to the family as a whole it can be claimed by either the husband or the wife. In addition, there are many benefits which are only available for women. For working women an additional income tax rebate has now been made available by raising the amount of " Standard Deduction". Within government there are a large number of special concessions and relaxations specially available for women including those related to posting of husbands and wives together at the same station, maternity benefits etc. A list is given below:

- Age relaxation for widows and women separated from their husbands for appointment in Groups C and D posts under the Central Government filled through direct recruitment. The upper age limit in the case of widows, divorced women and women judicially separated from their husbands who are not remarried is relaxed up to the age of 35 years (up to 40 years for members of Scheduled Castes/Scheduled Tribes) by invoking the provisions in the relevant recruitment rules.

- Initial appointment of women candidates in a state of pregnancy and declared as temporarily medically unfit.

280. A woman candidate shall not be declared as "temporarily unfit" if she is found to be pregnant during the medical examination before appointment. She can be appointed straightaway on the job. However, where pregnant women are to be appointed against posts carrying hazardous nature of duties e.g. in police organizations etc. and they have to complete a period of training as a condition of service, their appointment will be held in abeyance till declared medically fit six weeks after the confinement is over.

- Representation of women members on various Committees/Boards concerned with selection.

281. The matter has been considered and it has been decided that the Ministries/Departments etc. should endeavour to nominate to the extent possible, a lady officer on the Selection Boards/ Committees concerned with selection of candidates for various posts/services under them.

- Posting of husband and wife at same station : To enable women to continue with their jobs as also to lead a normal family life and to ensure the education and welfare of their children, the Department of Personnel and Training has issued a memorandum in 1986 impressing upon the administrative authorities to post the husband and the wife at the same station as far as possible. A portion of this O.M. is reproduced below:

282. "The question of formulation of a policy regarding the posting at the same place of husband and wife who are in Government service or in the service of Public Sector Undertakings has been raised in Parliament and other forums on several occasions. Government's position has been that requests of Government servants and employees of Public Sector Undertakings for posting at the same station usually receive sympathetic consideration, and that each is decided on merits, keeping in view the administrative requirements.

283. The Government of India have given the utmost importance to the enhancement of women's status in all sectors and all walks of life. Strategies and policies are being formulated and implemented by different Ministries of the Central Government to achieve this end. It is also considered necessary to have a policy which can enable women employed under the Government and the Public Sector Undertakings to discharge their responsibilities as wife/mother on the one hand, and productive workers on the other, more effectively. It is the policy of the Government that as far as possible and within the constraints of administrative feasibility, the husband and wife should be posted at the same station to enable them to lead a normal family life and to ensure the education and welfare of their children."

- Recruitment of women candidates to Central Civil Services/Posts. No Discrimination : Recently a few instances came to the notice of the Government where the advertisements for filling up of vacancies in certain categories of posts contained a stipulation that women were not eligible for the post. The reasons given by the organization included the location for which the posts were advertised at some distance from the city and extended shift hours and were involved women candidates might not be able to reach the place of work and return from there at odd hours by the public transport. This was not considered proper and it was impressed upon the Ministries/Departments that whatever may be the reasons, this apart from being reminiscent of under estimating the potential of women, is clearly violative of Article 16 of the Constitution according to which no citizen shall on the grounds only of sex be ineligible for, or discriminated against in respect of any employment of office under the State. The proper course of action where some difficulty is envisaged in the matter of availability of public transport or any other difficulties for that matter would be to remove those difficulties by providing necessary facilities rather than excluding women candidates from recruitment.

284. It was also reiterated that the above instructions contained in O.M.No.14034/10/86-Estt.(D) dated the 5th June, 1986 should be followed scrupulously and any violation of the instructions would be viewed seriously. It was also made clear to all concerned that any action amounting to violation of the instructions dated the 5th June, 1986 would be adversely commented upon in their confidential reports.

- ***Maternity Benefits*** : The grant of maternity leave and the payment of cash benefits are included in all the Acts namely Factories Act, 1948 Mines Act, 1952 and Bidi and Cigar Workers (Conditions of Employment) Act, 1966 etc. In order to bring uniformity in scope, qualifying conditions and rates of benefits, the Maternity Benefits Act, 1961, was passed which applies to factories, mines and plantations except those factories or establishments which are covered by the Employees State Insurance scheme.

285. The Central Government employees are, by and large, governed by the Central Civil Service (Leave) Rules, 1972 and under these rules the female Government employees are at present entitled to maternity leave for a period of 90 days from the date of its commencement. During such period the employee is paid leave salary equal to the pay drawn immediately before proceeding on leave.

286. Maternity Leave is also admissible in cases of miscarriage including abortion subject to the condition that -

- the leave does not exceed six weeks; and
- the application for the leave is supported by a medical certificate as required under the rules.

287. Abortion induced under the Medical Termination of Pregnancy Act, 1971 is also considered as a case of abortion for the purpose of grant of maternity leave under the Central Civil Services (Leave) Rules, 1972.

288. Maternity leave may be combined with leave of any kind. Any leave including commuted leave for a period not exceeding sixty days applied for in continuation of maternity leave may also be granted without production of medical certificate. Leave in further continuation of 90 days plus 60 days is also admissible on production of medical certificate for the illness of the female Government servant or for the illness of the newly born baby to the effect that the condition of the ailing baby warrants mother's personal attention and that her presence by the baby's side is absolutely necessary.

Child Care:

289. For women in organized employment, the factories act makes it compulsory to provide child care facilities through creches. There is however an anomaly in the Act which lays down a minimum number of women employees for the operation of this clause of the act making it possible for employers to use this loophole to avoid providing this facility. Government is examining the issue in depth. The Government has recently brought about a new legislation, called the "Building and other Construction Workers (Regulation of Employment and Condition of Service) Bill, 1996, wherein the provision of creches for construction worker's children has been made compulsory. This Bill has since been passed by both the Houses of Parliament and is awaiting President's assent. Government has also set up a National Creche Fund to substantially expand the network of government creches being run through NGOs particularly for women in the unorganized sector.

Bank Loans and Credit

290. India has a very large network of Banks and other financial institutions both in the private

and the government sector. When 14 Banks were nationalized by the Government of India more than two decades ago the major objective was to ensure that weaker sections of the population have better access to loans. Legally, in keeping with India's guiding principle of non discrimination on grounds of sex, caste, race etc., there is no bar to women obtaining credit.

291. In reality, however, women's access to credit is severely constrained by the almost universal insistence on security and collateral in the form of property by banks and the limited access and title that women have to property. Although the Hindu Succession Act grants women equal rights to property, strong cultural traditions in a predominantly patriarchal society prevent its translation into practice. Secondly the high transaction costs that institutional credit entails for women in terms of time, the complexity of procedure, rules and a predominantly male staffed banking set up, particularly in rural areas, discourages women and consequently their real access to institutional credit is very limited though when it comes to the private, informal, often highly exploitative credit market, women are important borrowers. There is in fact no clear record of the extent of coverage of women borrowers by the formal credit structure because the collection and maintenance of data is not gender disaggregated.

292. As the economic empowerment of women is high on the government's agenda, government has initiated a number of steps to improve women's access to institutional credit. In the first place government has relied heavily on affirmative action by way of reserving minimum quotas (30/40% generally) for women in all major credit and subsidy schemes targeted at families below poverty line such as the Integrated Rural Development Programme etc. Exclusive loan-subsidy schemes for women have been extended to all districts of the country, viz., through the DWCRA programme.

293. Secondly the Government has started a gender sensitization effort of Bankers with the help of the National Institute of Bank Management, Pune through a pilot project.

294. Apart from trying to improve women's access to mainstream credit systems through quotas, subsidies, low interest rates, elimination of requirement of collateral and special schemes which include efforts to improve the bankability of women such as by training and skill upgradation, Government has also started a number of efforts to reduce transaction costs. Mainly, two sets of strategies are being tried out. First, alternative systems of credit, involving NGOs as intermediate organizations, who take loan from the institutions for on-lending to women in the informal sector, are being tried out. These systems are more women friendly, less formal and therefore have lower transaction costs. The second element of this strategy is looking at the demand side of the equation and mobilizing poor women into thrift groups and using peer support, peer interaction and peer pressure as props to sustain highly successful credit systems exclusively for women. There are two national efforts that can be cited as Government initiatives viz. the Rashtriya Mahila Kosh (or National Credit Fund for Women) and the Self Help Group Scheme of the National Bank for Agriculture and Rural Development(NABARD). In these the ultimate on-lending interest is 12% and 16-18% respectively and both use NGOs to mobilize and on-lend.

295. Government is now formulating a multi-state programme in collaboration with IFAD wherein poor women will be formed into self-help groups, given training and awareness generation

and offered a range of credit options both from mainstream and special programmes. It is expected that these inputs will bring down transaction costs for women and provide a replicable model. In the non-government sector outstanding examples of such innovative efforts exist in the Western (SEWA, Gujarat, Annapurna Mahila Mandal, Bombay etc.) and Southern (Working Women's Forum, Tamil Nadu, Samakhya, Andhra Pradesh etc.) parts of India. Efforts are now under way to spread them to other states.

Sports and Recreational Activities

296. Women have full rights and opportunities to participate in sports, cultural and recreational activities. Indian women have in fact on occasion shown distinction in all these fields at the national levels, in athletics, mountaineering, cricket, music, dancing, etc.

Article 14

297. The rural economy contributes a little over 30% of the GNP and accounts for 60% of the employment. Although the percentage of rural population has dropped from 82.7% in 1951, it is still as high as 74.3%. All our development plans have emphasized distributive justice and therefore rural development and agricultural production as important strategy components.

298. Rural women constitute nearly 80% of the female population. Although they are major contributors to the country's agriculture based economy, the preservers of fragile eco-systems and providers of fuel, food and water within households, their role was explicitly recognized as actors (and not just as objects of welfare) for the first time in the 6th Five Year Plan in early eighties. The basic strategy since then has been to try and ensure women a fair share in rural development and agricultural programmes through quotas as well women specific programmes.

299. The Community Development Programme launched in 1952 had adopted a systematic and integrated approach to rural development within a hierarchy of village level workers and block level workers drawn from various fields and sectors. Agriculture, animal husbandry, public health, women's development, rural industries etc. each found a special niche in this framework.

300. The contents of all these programmes were to strengthen the rural base of the economy, specifically the primary sector comprising agriculture, animal husbandry etc. and to generate employment through labour intensive works that would create the infrastructure of roads and other community assets for the benefit of the rural people.

301. It was recognised that the skewed pattern of land holdings stood in the way of creating an egalitarian society and obstructed modernization and intensification of agriculture. Land reform measures for abolition of intermediary tenures, tenancy reforms, imposition of land ceiling on agricultural holdings, distribution of surplus land to the landless agricultural workers and consolidation of land holdings were undertaken in the States under Central guidelines. The

implementation of these laws has, however, been not uniform. While in States like Kerala and West Bengal, these have been pursued with diligence and zeal in other States the performance has not always been satisfactory.

302. Women's employment has been recognised as a `critical entry point' for their integration in mainstream development. The need for giving a better deal to rural women has been widely recognised and it has been accepted that the participation of women themselves in development activities is the most effective tool for the promotion of access of women to the benefits of development.

303. The Sixth Five Year Plan (1980-85), as mentioned earlier was a landmark as women's development received recognition as a development sector and a separate chapter on it was, for the first time, included in the Plan document. The Plan adopted a multi-disciplinary approach with a three-pronged thrust on health, education and employment.

304. The specific identified problems concerning rural poor women were (i) marginality of attention and services to them in rural and agricultural development (ii) special constraints that obstruct their access to available assistance and services such as lack of training to develop their awareness and skills; lack of information and lack of bargaining power; (iii) low productivity and narrow occupational choices; (iv) low level of participation in decision making; (v) inadequate finance and expert guidance for promoting socio-economic activity of rural women and their participation; (vi) inadequate monitoring of women's participation in different sectors; (vii) wage discrimination; (viii) inadequate application of science and technology to remove drudgery; and (ix) low health and nutrition status.

305. The Sixth Plan began a system of earmarking a percentage of allocation (30%) for women in TRYSEM one of poverty alleviation programmes and introduced a special programme for promoting women's self employment (DWCRA programme). The Seventh Plan began the strategies on the increasing coverage of women in various rural development programmes and the general principle ensuring women a share of employment opportunities by earmarking quotas for women in all wage employment and asset endowment programmes..

306. The Integrated Rural Development Programme (IRDP) initiated in 1978-79 and extended to all the development blocks in the country in 1980-81 was conceived as one of the instruments for a direct attack on poverty. It dealt with individual rural families below the poverty line. Credit from banking institutions and subsidy from the Government were given to the families for self-employment and income generation. Under IRDP, a special place was accorded for training rural unemployed youth for employment with the introduction
of TRYSEM (Training of Rural Youth in Self-Employment).

307. A 40% reservation for women in terms of coverage of beneficiaries and credit made available has been made for women within the IRDP. Under this programme, designed to benefit the small and marginal farmer, agricultural labour and rural artisan, by funding assets and other inputs, the coverage of women has been consistently increasing from nearly 10% of the total in 1985-86 to

almost 34% in 1993-94. Under the TRYSEM programme, over 1.4 million women have benefitted so far. This programme also has a 40% reservation for women. It has now exceeded 44% of the total coverage. There is a priority focus on women headed households within all the programme.

308. Further an exclusive scheme for the social and economic uplift of women belonging to families below the poverty line, DWCRA (Development of Women and Children in Rural Areas) was launched in 1982 as a sub-component of IRDP and it has been extended to all the districts of the country. So far around 18,000 women's groups have been formed to take up economic activities.

309. This programme aims not only to raise the incomes of rural women of poor households, but also to enable the organized participation of groups of women in programmes of credit, skill training and infrastructural support for self-employment. Their access to basic services of health, education, child-care, nutrition, drinking water and sanitation is also sought to be improved.

310. Women's Development Corporations have been set up in the States since 1986-87, to play a catalytic role in identifying women entrepreneurs, providing technical consultancy, facilitate availability of credit, promote marketing of goods, strengthen women's cooperatives and arrange training facilities.

311. Institutions such as nationalized banks and the National Bank of Agriculture and Rural Development (NABARD) have a package of schemes for poverty eradication which relate to Priority Sector Lending (PSL). Within these, special emphasis is laid on gender related aspects of credit and support services. NABARD is promoting the concept of Self-Help Groups (SHGs) to reach out to small credit needs of the rural sector. Currently, over 2000 such SHGs are in operation in the country. Significantly 90% of the SHGs are run by women.

312. Several evaluations of Government sponsored poverty eradication programmes have been conducted, and it has been concluded that while a dent has been made, there is still a lot of ground to be covered. It has also been observed that those near the poverty line are able to cross the threshold through such programmes, but others at the bottom, specially women, have neither the economic nor the social wherewithal to utilize these facilities to improve their economic status.

313. While Government policies and programmes have been uniform across the country, differences in implementation, due both to attitudes and differences in institutional structures, have been evident. The experience with growth has also been varied. As a result, there is a tendency for poverty to be concentrated in Central and Eastern India (almost 75% of the rural poor are found in this belt). Similarly, poverty is concentrated in pockets within States - in Gujarat, for example, there is a high growth industrial corridor, with a poor and environmentally degraded hinterland. Only throughout the states of Punjab and Haryana have high growth rates been sustained. Elsewhere, bottlenecks in infrastructure, and resource use, have set limits to sustainable growth rates.

314. Over and above regional variations, intra-household dimensions acquire special significance, once the focus is on women. Entitlement to households resources is never even and there is a

consistent gender bias in access to food. This cannot be adequately captured in statistical estimates. It is felt that intra household inequality can be tackled only through empowering women and the State and the policy environment can certainly influence of women's empowerment. Further, the labour market can also have a tremendous impact on issues of power by strengthening the economic status of women and thus indirectly providing them a voice in intra household matters.

315. It has been recognised that regional dimensions, and intra household resource allocation issues have to be well integrated with macro policy directions. This requires, first, institutional structures that permit a ready flow of information in both the directions, and a system of governance that leaves enough spaces for both local and private action. Second, processes that empower the poor, to enable their perspectives and needs to influence policy directions, require strengthening.

316. The social dimensions of extreme poverty require action on a range of fronts, designed to empower, through awareness of rights. This includes literacy in general, legal literacy in particular, and training programmes that will assist women in productive activity. It is important that such skill training be well matched with market requirements. Finally, while local action will be encouraged, there should be in-built mechanisms to ensure that mis-match does not occur between decisions taken locally, and larger macro-level market trends.

317. Therefore, efforts to improve the position of poor Indian women have to focus on them as economic actors within a framework of their other multiple roles, as well as the total socio-political environment. Increasing women's economic productivity affects their own status and survival in the immediate family and their valuation at the wider societal level. Evidence suggests that improvements in their 'bargaining power' within the household, and direct, unmediated access to income drastically reduces women's dependency.

318. Changed perceptions of women's economic value appear to change family resource allocation preferences by raising the opportunity costs of not investing in the welfare and economic productivity of women. This means that raising female earning power may be critical to increasing the effective demand for the education, health and family planning services necessary to improve women's status.

319. The cumulative impact will be the overall advancement of the economic status of women along with the "defeminisation" and eradication of poverty.

320. The country's strategy during the nineties builds upon the broad strategy of specifically ensuring women their share in development with a recognition of certain inadequacies of this approach. In the first place it recognizes that women need to participate as active change agents in the process of development and not remain as passive recipients of development. Secondly, it recognizes that government responses to the problems of women are invariably sectoral and therefore fragmented, while the needs of women, are holistic. The two basic thrust areas of the nineties therefore are to enhance the participation of women in decision making processes particularly at grass roots level and to ensure the convergence of a whole range of social and economic services for women through an appropriate delivery system accountable to women.

Reservation for Women in Grass-root Level Democratic Institutions (1993)

321. The 73rd and 74th Constitutional Amendment Acts of 1993 mark historic events in the advancement of Indian women as they ensure 1/3 of total seats for women in all elected offices of local bodies, in rural areas and urban areas. In the rural areas, about 1 million women are going to emerge as leaders/decision makers at the grass-roots level and enter public life through the existing 0.25 million bodies. Of these, about 75,000 will be the Chairpersons of local Institutions at the village, block and district levels, as per the Act. Women have thus been brought to the centre-stage in the nation's efforts to strengthen democratic institutions at the grass-roots levels. The groundswell that this is likely to build up as a result, will undoubtedly influence parameters of development and impact on the lives of women and men.

322. The process of election to these bodies is continuing throughout the country and will be completed shortly. A massive country-wide training programme has been launched since 1993 to give leadership training to the elected women representatives.

323. The States have now amended their State Acts in consonance with the Constitutional Amendments. The new Panchayati Raj Institutions will now have regular tenure and elections. The elections will be conducted through independent Election Commissions being established in the States. To give adequate financial resources to the Panchayats for carrying out their responsibilities of plans for economic development and social justice, in each State, Finance Commissions are being established. Gram Sabhas will be the basic functional unit and there will be a three-tier system of Panchayats at village, intermediate and district levels. Smaller States with population below 20 lakhs will have the option not to have intermediate levels of Panchayats. Seats in Panchayats at all the three levels shall be filled by direct elections. To ensure adequate representation of Scheduled Castes and Scheduled Tribes as well as women, seats would be reserved for SC/ST in proportion to their population and one third of the total number of seats would be reserved for women.

324. In addition, one third of offices of Chairpersons of Panchayats at all levels are also be reserved for women. The State legislatures have also been given liberty to provide reservation of seats and offices of Chairpersons in Panchayats in favour of other backward classes of citizens.

325. The Government's response to the problem of fragmentation of delivery systems is to form women into self help groups at the village level through a process of mobilization and conscientization and making the local delivery mechanisms accountable to these groups so that a clientele orchestrated convergence takes place. These groups are homogeneous and based on a range of indicators designed to reflect poverty and vulnerability. There would be elected representatives from amongst these women who would act as their interlocutors in accessing services and influencing decision making within service providing structures. This process has been launched on a pilot basis in 200 development blocks of the country under the name Indira Mahila Yojana and is slated to move to scale in a few years.

326. Women's health status is basic to their advance in all fields of endeavour. The cultural norms which specially affect women's health are the attitudes to marriage, age of marriage, the value

attached to fertility and sex of the child, the pattern of family organizations and the ideal role demanded of women by social conventions. These norms also determine women's place within the family, the degree of her access to medical care, education, nutrition and other accessories to health. Therefore improvements in female health status particularly in rural areas, are critically dependent on a number of non-health components.

Health Care for Rural Women

327. As indicated earlier India's National Policy is committed towards attaining health for all by "2000 AD" Primary health care has been accepted as the main instrument for achieving this goal. Accordingly a vast network of Institutions at primary, secondary and tertiary levels have been established. Development and strengthening of rural health infrastructure under the minimum needs programme to provide primary health care relevant to the actual needs of the community in the rural areas is being achieved through a three tier system of Sub-centres, primary health centres and community health centres.

328. Sub-Centres: A Sub-Centre is established on the basis of one centre for every 5,000 population in plain areas and for 3,000 population in hilly and tribal areas. Upto the end of the Plan, 1,29,291 Sub-Centres, were functioning while their number rose to 1,30,820 by the end of September 1992 against the estimated requirement of 1.38 lakh Sub-centres for the Seventh Plan.

329. Primary Health Centres: A Primary Health Centre is established on the basis of one PHC for every 30.000 population in the plain areas and for every 20.000 population in hilly, tribal ad backward areas. The number of PHCs functioning in the country was 18,888 by the end of the Plan (1.4.90) which rose to 20,084 PHCs by the end of September 1992.

330. Community Health Centres (CHCs): Rural hospitals with specialist facilities established by upgrading PHCs have 30 beds, to cover a population of 80,000 - 1.20 lakh. By the end of the Plan (1.4.90), the number of CHCs functioning was 1,820 which rose to 2,060. CHCs act as rural Centres of four PHCs in a Block. Each Sub-centre is manned by one Male Health Worker and one Female Health Worker (Auxiliary Nurse Midwife). In order to train the required number of ANMs in the rural areas, there are 468 ANM training Schools functioning in the country.

331. One female Health Assistant has to supervise the work of six sub-centres in the rural areas. She provides technical guidance and supervision to the ANMs who are working in rural areas. The senior ANMs are trained for six months to take up the post of LHV, which is a promotional post. There are 45 training schools with an admission capacity of 2,838 functioning in the country. These training schools are utilized for running continuing education programmes for the Female Health Assistant (LHV) besides providing basic training programme of six months duration.

332. Training of Dais: Majority of deliveries in the rural areas are conducted by Dais (Birth Attendants). The objective of training the untrained Dais is to enable them to conduct safe and hygienic delivery in the rural areas. They are also involved in promotion of the small family norm. It is estimated that about 1.18 lakh untrained Dais are working in the rural areas. These Dais are

being trained in a phased manner. Efforts are being made to provide continuing education programme for Dais and also to improve the link between ANM and Dais so that the quality of MCH services provided in the rural areas can be improved. So far, about 602.3 million dais have been trained. The village Health guide Scheme was initially started as a Village Health Worker Scheme on 2nd October, 1977 in all States except Tamil Nadu, Jammu & Kashmir, Kerala and Arunachal Pradesh who had their own alternative schemes. The present village Health Guide (VHG) Scheme was started in 1981. According to the Scheme, the village community selects a volunteer as VHG who educates the community in sanitation and personal hygiene. He/She is also to render assistance in maternal care and educate the mothers about immunization and family welfare scheme. He/She has to keep track of communicable diseases and treat minor ailments and provide first aid to the patients.

333. Mahila Swasthya Sanghs: Village level functioning and personal communication was sought to be made more effective by initiating steps for the creation of Mahila Swasthya Sanghs in the villages having more than 1000 population or 200 households in plain areas and 500 or more population in hilly terrains including the North-Eastern States. These women's groups help to assist the ANMs to obtain support from other women colleagues working in the village for the welfare of women and children and providing a forum for discussion and implementation of family welfare programmes like immunization, Oral Rehydration Therapy (ORT), popularization of spacing methods, etc. The MSS members are given short term training and are supplied educational and information materials, and guidance by local level health workers. More than 34,000 Mahila Swasthya Sanghs have been formed in various States and Union Territories.

334. Under the Indira Mahila Yojana, explained in an earlier paragraph, the village health system will remain accountable to the local self help group of women. The accent of the entire health strategy will be to orchestrate a process by which women can themselves articulate a demand for appropriate, accessible and affordable health care systems and will be free to access them without social or cultural constraints and will be able to exercise informed reproductive choices in consultation with their husbands. The state's responsibility will be to provide the necessary health services including infrastructure and human resources, a range of family planning choices and the necessary information and education.

335. Article 41 of the Constitution of India lays down that " The State shall, within the limits of its economic capacity and development, make provisions for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and in other cases of undeserved want." India has ratified ILO Conventions numbers 18, 19, 42 and 118 related to Workmen's Compensation, Equality of Treatment (Social Security) etc.

336. Social Security is being provided to workers including female workers through the following enactments :

- The Workmen's Compensation Act, 1923
- The Employees State Insurance Act, 1948
- The Employees Provident Funds & Miscellaneous Provisions Act, 1952

- The Maternity Benefit Act, 1961
- The Payment of Gratuity Act

337. In addition, medical care and certain other welfare facilities are being extended to workers employed in specific industries which are semi-organized through specifically constituted Welfare Funds, such as the Bidi Workers Welfare Fund, Cine Workers Welfare Fund etc.

338. These social security provisions exist, however only for the formal sector. The problem is that over 90% of women workers are in the informal sector, for whom there is no legislation regarding social security. The accent here is on social welfare and safety nets. The components of these are the following:

- The Primary Health Care system and the MCH services in rural areas which are free
- The Public Distribution System which is highly subsidized
- The Primary Education System which is free in almost every state of India and the school mid-day meal programme
- The wage employment and food for work schemes in rural areas such as the Jawahar Rojgar Yojana and the Employment Assurance Scheme
- The Integrated Child Development Service Scheme which currently reaches out to 17 million children and 3 million pregnant and lactating mothers with a package of child development, pre-school education and nutrition services
- The national creche fund which has been set up to expand the existing network of over 12,000 creches primarily in rural areas by giving assistance to NGOs
- The government has recently announced a national social assistance scheme providing for old age and widow pension and maternity benefit to those living below the poverty line

339. The challenge is to improve the quality of services and the coverage of women under the schemes.

340. The States effort to bridge the gender gap in education and training has been described in details under Article 10 earlier in this report. It is the rural areas which provide the biggest challenge in this respect. Therefore the focus of all the major initiatives in this sector is on the rural areas.

341. Women's Education has been a important feature for the country's planned development. Although there has been a large scale expansion of facilities for education, vast disparities, exist in the relative utilisation of available facilities by boys and girls and various stages of education to promote enrolment and retention of girls in school. Efforts have been made to identify the factors which result in low enrolment of girls. Under the Sixth Plan the programmes for universalization of elementary education were specially directed towards higher enrolment and retention of girls in schools. In addition to free distribution of text books, uniforms, mid-day meals etc., coordination of support services such as drinking water, fodder and fuel to release girls from related domestic chores Balwadi-cum-creches attached to the schools to enable girls responsible for sibling care at home to attend schools are required. More women teachers were appointed in rural areas to encourage girl's education.

342. The adult education programmes are being conducted with the massive participation of non-governmental organizations and students. A National Institute of Adult education has been set up to augment the technical and academic resource support to adult education and
to undertake quality research and evaluation studies.

343. Area-specific and time-bound mass campaigns for total literacy have been launched in various districts of the country by March 1992. 25 five districts had achieved total literacy and total literacy campaigns were at different stages of progress in 80 districts in various States covering over thirty million illiterates with the help of about 30 lakh volunteers.

344. Further the Eighth Plan lays emphasis on the sustainability of literacy skills gain and on the achievement of the application of skills to actual living and working conditions. The main strategy of future is to adopt a decentralized approach to educational planning and management at all levels to Panchayati Raj Institutions; Integrated utilization of all possible resources available at Panchayat, block and district level for activities relating to elementary education/literacy, child care/development, women's socio-economic empowerment and rural health programmes; and large scale participation of voluntary agencies.

345. Once again when it comes to credit, the major emphasis of most initiatives is on the rural areas whether in the governmental or private voluntary sector. The Ministry of Rural Development have several schemes for providing better opportunities to the women in rural India. 40% of the total assistance under Integrated Rural Development Programme (IRDP) and 40% of trainees under Training of Rural Youth in Self Employment (TRYSEM) are reserved for women. 30% of the employment opportunities under Jawahar Rozgar Yojana (JRY) have also been reserved for women. Under the Indira Awas Yojana (IAY), priority is given to widows and unmarried women in allotment of houses. In all cases, houses are allotted in the name of women members of the household or in the joint names of husband and wife. Training is being given to enable women to play an active role in the use and repair of handpumps for supply of drinking water.

346. Under the IRDP which aims at helping poor people with annual income upto Rs.11,000 or less, 40% of the total assistance is reserved for women. Under IRDP, assistance is given to the rural poor through Government subsidy and back credit to help them set up their own business enterprises in manufacturing, weaving, food processing and many other village based industries or agricultural activities and services. Consumption of loans upto Rs.1,000 are also provided by the District Rural Development Agencies (DRDAs) and are aimed at protecting the poor people from exploitation by money lenders.

347. The maximum coverage so far under the National Credit Fund for Women (Rashtriya Mahila Kosh) and the operation of the NABARD self help group scheme described under Article 13 above is in rural areas.

348. Government is running a massive savings scheme called the Mahila Samriddhi Scheme exclusively in rural areas providing a special enhanced interest rate for women to open savings accounts in post offices. Under the scheme some 10 million women in rural areas have opened accounts in barely 3 years.

349. Women's participation in cooperatives has also been increased. The number of exclusive women's cooperatives has also gone up. Illiteracy is a crucial factor which inhibits women's participation. Facilities for cooperative education and training are not adequate which results in lack of confidence. As a result women are hesitant to enter the Movement and even where participation is high, success is not assured due to poor training.

350. Since cooperatives are a means by which women can improve their economic well-being and gain in confidence and self-esteem, a special policy towards increasing women' membership and formation of women's cooperatives has been seen to be of utmost importance. The existing scheme of cooperative education for women, it is felt, has to be given impetus at all levels. The broad objectives of the scheme are:

- to educate women in the cooperative concept and principle and potentialities of cooperation
- to acquaint them with their role in supporting and strengthening the society.
- to expose all women members in the managing committees to the provision of the cooperative Act and Rules and Bye-laws, and techniques of cooperative management.

351. In the voluntary sector there are certain organizations that deal with the problems relating to the working and living conditions of self-employed women. The focus of most of these organizations is the self-employed woman. Self Employed Women's Associations (SEWA), Working Women's Forum (WWF) and Annapurna Mahila Mandal (AMM) are some such organizations. These organizations identify and address the critical needs of working women, mobilize working women for joint economic and social action resorting to group pressure, improve their entrepreneurial skills through training, material inputs, credit and extension services necessary for working women and their families such as child care, education, health and family planning.

352. SEWA also works on "developmental activities by promoting development of cooperatives of self-employed women". To date, SEWA has prompted 17 cooperatives including production co-operatives, such as garment making, block printing, weaving, and milk production, trade co-operatives, of vegetable vendors and fish vendors, and service co-operatives of cleaners, agricultural labourers, tree growers and child care providers. Social security schemes of health care, maternity benefits and insurance are promoted to lend support to the working women.

Article 15

353. Article 14 of the Indian Constitution provides that `the State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.

354. The phrase "equality before law" has been further elaborated under Article 15(1) of the constitution which lays down that the state "shall not discriminate against any citizen" on grounds of sex along with any other grounds. In other words, while all laws are to apply to members of two

sexes equally, there is express prohibition of discrimination on the ground of sex. However, the provision of non-discrimination on this account does not prevent the State from making any special provision for women as has been laid down under Article 15 (3) of the Constitution.

355. The Directive Principles of State Policy reflects the ideals of India's liberal democratic policy and strives to secures a just, social, political and economic order geared to promote the welfare of the people. The ones which concern women directly and have a special bearing on the status of women are :

356. Article 39 which ensures right to an adequate means of livelihood for men and women equally, equal pay for equal work for both men and women and health and strength of workers, men, women and of tender age children; Article 42 which directs just and humane conditions of work and maternity relief; & Article 44 which endeavours to secure uniform civil code for all the citizens. There are different personal laws for various religions. The Hindu Marriage Act, 1955 governs Hindu Marriage, The Indian Christian Marriage Act, 1862, and the Indian Divorce Act of 1869 are applicable to Christians. Muslims are governed by the Muslim Women's Protection Act, Parsis are governed by the Parsi Marriage and Divorce Act of 1936. Article 325 and 326 give men and women equal rights and responsibilities for electing democratic government and participating in it.

357. It is clear that the Constitution of India contemplates attainment of an entirely new social order, where all citizens are given equal opportunities and rights and no discrimination takes place on the basis of race, religion, caste, creed or sex.

358. Women and men enjoy complete equality in civil and legal matters, whether they relate to concluding contracts or administering property or practicing in the law courts or administering justice. There are many women lawyers, magistrates and judges in the country. Women could serve as Assessors, Receivers, Jurors etc. A woman can be a witness and her testimony carries as much weight as that of a man.

359. Men and women are to be equally treated by all law courts. Any man or woman can sue or be sued in his or her name. In criminal matters the legal capacity is determined by the age of the offender rather than by sex. A woman also has the right to choose where to live.

360. These, however are de-jure rights to equality which the Constitution of India guarantees to women and men. When it comes to the de-facto realization of some of these rights, there are large gender gaps. Constitutionally women have equal access to legal services but because of low levels of education, limited exposure to laws and legal procedures, social taboos and limited financial means, women cannot always utilize legal services. As has been mentioned earlier in this report government has sought to remedy this condition by providing legal aid, legal literacy and promulgating the Family Courts Act.

361. Similarly although women have the legal capacity to enter into contracts in their own names, relatively few women do so in practice because of the very limited property that they hold. In spite of the Hindu succession Act granting equal inheritance rights to female heirs, except in case of co-

parcenary property, in practice women are invariably coaxed into relinquishing such rights in favour of their male relations. Even co-parcenary rights have been granted on equal terms to women in some states but they tend to remain on paper only.

362. Women have the right to choose where to live. However except in the matrilineal societies of Kerala or the North Eastern parts of India the predominant system of patrilocal residence means that women live with their fathers before marriage and their husbands after marriage. Limited economic options and limited education and training restrict mobility and can aggravate the situation in cases where women are expressed to familial violence and oppression. Even where these fetters don't exist, fear of gender based violence and socio-cultural norms often works against mobility.

Article 16

363. Family relations in India have been governed traditionally by religious personal laws. The five major religious communities: Hindu, Muslim; Christian, Jews and Parsis have their separate personal laws. They are governed by their respective religious laws in matters of marriage, divorce, succession, adoption, guardianship and maintenance. Hindu personal law has been extensively reformed in order to apply the Constitutional provisions to a considerable extent. The personal laws of other minorities communities except Parsi personal laws have been left virtually untouched because the GOI has adopted a policy of non-interference in the personal laws of any community unless the demand for change comes from within those communities. The Parsi marriage and Divorce Act has been amended to give equal rights to Parsi women - The demand for the change came from the Parsi community itself. In view of the above mentioned decision the GOI made a declaration at the time of becoming a party to this Convention viz.

With regard to articles 5 (a) and 16(1) of the Convention on the Elimination of All Forms of Discrimination against Women. The Government of the Republic of India declares that it shall abide by and ensure these provisions in conformity with its policy of non-interference in the personal affairs of any Community without its initiative and consent.

364. Under all the personal laws the women have the same right to enter into a marriage with free and full consent. The absence of the consent of one of the both spouses renders the marriage voidable.

365. Except in Islamic, Jewish and Christian law there is no legal provision as regards the right to freely choose a spouse. In India traditionally the marriages are arranged by the parents of the respective spouses. The consent of the boy and the girl is presumed. Islamic law however provides the 'option of puberty' i.e., the right of a woman married as a minor to reject the marriage after attaining puberty. The provision, however is rarely used. In the case of adult women however if they seek the protection of law, they cannot be forced into a marriage against their will nor deprived of the right to marry someone of their choice.

366. During the subsistence of a marriage a married woman is entitled to claim maintenance from

her husband under the Hindu Law. However, a summary remedy has been provided under the Criminal Procedure Code whereby women from all communities except Muslims can claim maintenance from their husbands. An indigent husband is entitled for maintenance from his wife only under the Hindu Law. In view of difficulties faced by women in pursuing their rights in courts, the Government has enacted the Family Courts Act as it is felt that litigation concerning affairs of the family requires special approach in view of the serious emotional aspects involved. All family law matters such as marriage, matrimonial causes, maintenance and alimony, custody, education and support of children and settlement of property come within jurisdiction of the Family Courts. The Act opts for a less formal procedure and a number of experts like judges, social workers, welfare officers and psychiatrists are engaged in counselling services.

367. To protect the married women from violence within the family and harassment related to dowry, a number of provisions have been introduced in the Indian Penal Code.

368. The laws relating to marriage and divorce among Parsis is contained in the Parsi (Marriage and Divorce) Act, 1936. On the recommendation and proposals from the Board of Trustees of the Parsi Panchayat, this Act was amended to enlarge the scope of some of the provisions of the principal Act so as to bring them on the lines of the provisions of the Hindu Marriage Act, 1955 providing for minimum age of marriage for girls and boys, introduction of new grounds of dissolution of marriage and inter-spousal obligations to provide maintenance.

369. A particular problem associated with Indian society and tradition, some thing that is entirely a social evil is marriage - money or `dowry' to be paid to the groom by the bride's family for marriage. Demand for dowry has been considered a major reason for escalation of domestic violence against women. In order to combat this menace, the Dowry Prohibition Act, was passed in 1961 and the same has been amended further to make punishment for offenses under the Act more stringent. The burden of proof that there was no demand for dowry has been shifted to the person who is alleged to have taken or abetted the taking of dowry. Any advertisement which relates to the offering of any share of property in consideration of marriage has also been made punishable.

370. On domestic violence, the Indian Penal Code has been amended to provide a new offence called cruelty to wife by her husband or his relatives which has been made punishable with imprisonment upto three years and fine. Generally cruelty has been defined as any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or damage to the life, limb or health (whether mental or physical) of the woman or harassment of a woman with a view to coercing her or her relatives to meet any unlawful demand for property or valuable security. Provision has also been made for inquest by an Executive Magistrate and of compulsory postmortem in all cases where a woman has, within seven years of her marriage, committed suicide or died in circumstances raising a reasonable suspicion that some other person has committed the offence. Postmortem has also been provided for in all cases where a married woman has died within seven years of her marriage and a relative of such a woman has made a request in this behalf (Section 174, Criminal Procedure Code). Corresponding amendments have been introduced in the Indian Evidence Act to provide that where a woman has committed suicide within a period of seven years from the date of her marriage and it is shown that her husband or any

relative of her husband had subjected her to cruelty, the court may presume that such suicide has been abetted by her husband or by such relative of her husband (Section 113A, Indian Evidence Act).

Dissolution of Marriage

371. Under Hindu law both husband and wife can obtain a divorce on various grounds viz. - if the other spouse

- lives in adultery,
- converts into other religion,
- suffers from insanity,
- suffers from an incurable form of leprosy,
- suffers from a venereal disease
- adopts renunciation,
- has not been heard of as being alive for a period of seven years or more by persons who would naturally have heard of the person,
- fails to resume cohabitation for a period of 2 years after the decree of judicial separation, and
- fails to comply with a decree for restitution of conjugal rights.

372. Two additional grounds have been given to the wife :

- to obtain a divorce if the husband has more that one wife living, and
- if he has been guilty of rape, sodomy or bestiality.

373. Under the Parsi Marriage and Divorce Act as amended in 1987, both husband and wife can obtain divorce on the grounds which have been enumerated above under the Hindu Marriage Act.

374. Christians, in India, are governed by the Indian Divorce Act, 1869. Under the Act both husband and wife can obtain a divorce, but there is a great difference between the rights of the husband and the wife. The husband can obtain a divorce if the wife has committed adultery. The wife can seek a divorce on the following grounds :

- husband's conversion from Christianity and marriage with another woman;
- incestuous adultery;
- bigamy with adultery;
- marriage with another woman with adultery;
- rape; sodomy or bestiality;
- adultery with cruelty;
- adultery with desertion.

375. Thus the wife has to prove two offenses by the husband before she can obtain a divorce. The law is very out-dated and the need for revision has been felt for quite some time. The Christian community is also keen to revise this archaic law. A core group has been established which is working on revising discriminatory Christian laws.

376. Under Muslim law, a husband has an absolute unlimited right to repudiate the marriage at his will. This is known as Talaq. A Muslim woman has no such right to dissolve her marriage. Under traditional law a wife is permitted to seek dissolution of marriage only under the following forms :

- Talaqi Tafwid : This is a form of delegated divorce. According to this, the husband delegates his right of divorce in a marriage contract which may stipulate that inter-alia on his taking another wife, the first wife has the right to divorce him. The courts have upheld these pre-nuptial and post-nuptial agreements as not opposed to public policy nor against the spirit of Muslim Law. The Assam High Court has strengthened this right by declaring that such a power of Talaq given to the wife is irrevocable.

- Khul : This is a dissolution by an agreement between the parties to the marriage, on the wife's giving some consideration to the husband for her release from the marriage bond. The terms are a matter of bargain and usually takes the form of the wife giving up her dowry.

- Mubarrat : This is divorce by mutual consent.

377. Thus we see that while a husband can divorce the wife unilaterally and unconditionally without the intervention of the Court, the wife does not have any such right to obtain divorce without the intervention of the Court unless certain conditions have been prescribed.

378. A Muslim wife can obtain divorce without the intervention of the Court under the dissolution of Muslim Marriage Act, 1939. Under this Act the wife has a right to dissolve the marriage on the following grounds :

- that the whereabouts of the husband have not been known for a period of four years;
- that the husband has neglected or has failed to provide for her maintenance for a period of two years;
- that the husband has been sentenced to imprisonment for a period of seven years or upwards;
- that the husband has failed to perform, without reasonable cause, his marital obligations for a period of three years;
- that the husband was impotent at the time of marriage and continues to be so;
- that the husband has been insane for a period of two years or is suffering from leprosy or a virulent venereal disease;
- that she, having been given in marriage by her father or other guardian before she attained the age of fifteen years, repudiated the marriage before attaining the age of eighteen years; provided that marriage has not been consummated;
- that the husband treats her with cruelty...
- on any other ground which is recognised as valid for the dissolution of marriage under Muslim Law.

379. On dissolution of marriage, women of all communities are entitled to obtain maintenance from their husbands if they are unable to maintain themselves. The husband also enjoys this right

under Hindu and Parsi Law. The divorced wife can alternatively take recourse to the Criminal Procedure Code to obtain maintenance from the husband. The Muslim women have been excluded from the purview of the Criminal Procedure Code but they can take recourse to Muslim Women's Protection on Rights of Divorce Act, 1986 which specifies the rights which a divorced woman is entitled to, at the time of divorce and protects her interests. This Act gives to Muslim women more rights would have been available to them under the provisions of the Criminal Procedure Code.

380. The provisions relating to maintenance of children have to be added in this paragraph.

381. The Family Planning programme in India recognizes that social determinants such as female literacy, age at marriage and increased employment opportunities for women play a very important role in creating awareness amongst women which enables them to make conscious choices on number and spacing of the children they want. These factors also play a significant part in achieving reduction of infant mortality, improving health nutrition of pre-school children and containment of population growth based on a holistic approach to social development and population control. The GOI implements various integrated programmes for raising female literacy, female employment, status of women, nutrition and reduction of infant and maternal mortality.

Adoption

382. Adoption forms the subject matter of personal laws. The institution of adoption is not known in Christian Law in India. There is no law of adoption for the Parsis, neither is adoption recognised by custom. However, the widow of a Parsee dying issueless can adopt a `Palak' on the 4th day of the deceased's death, for the ad-hoc purpose of performing certain religious rites for the deceased. This adoption is only for a limited purpose and does not confer any proprietary rights on the `Palak'.

383. The Muslim Law does not recognize adoption but in India, this right was given earlier under law to Hindu converts to Islam, who had enjoyed this right prior to their conversion. This customary right was, however, partially abrogated by the Shariat Act, 1929, under which a Muslim could make a declaration that he and his sons would in future give up all customary rights including that of adoption and will be governed by the Act.

384. The unmodified Hindu law did not recognize the right of a woman to adopt. Under this classical law a male Hindu could adopt only a son and there is no provision for adoption of a daughter. The object of adoption was to ensure spiritual benefit by performing the last religious rites and also to continue the line. The devolution of property was regarded as of secondary importance. It was because of this basic approach to adoption that Hindu Law permitted adoption of boys alone and did not recognize the right of a Hindu to adopt girls as she could neither ensure spiritual benefit nor continue the line of her father.

385. With the passing of the Hindu Adoption and Maintenance Act, 1956, the whole basis of adoption has been changed. A Hindu can now adopt either a son or a daughter, since the religious purpose has given place to the secular idea of parents wanting a child. The husband can no longer give or take in adoption without the consent of the wife. In the case of an existing marriage,

however, the primary right continues to be of the husband. A woman can now adopt, if she is unmarried, widowed or divorced. Similar right is conferred on a married woman if her husband has completely and finally renounced the world, has ceased to be a Hindu, or has been declared by a Court to be of unsound mind.

386. The GOI had introduced a uniform and secular law of adoption - The Adoption of Children Bill 1972 which extended the right of adoption equally to men and women of all communities. However, the Bill lapsed in view of strong opposition to it by the Muslim Community which felt that the legal consequences of the adoption conflicted with the tenets of Islam.

Guardianship

387. Under Indian Law a guardian may be natural, testamentary or appointed by Court. As in other spheres of family law, there is no uniform law relating to guardianship. There are three different legal systems which are prevalent - Hindu Law, Muslim Law and the Guardian and Wards Act, 1980.

388. The Hindu Minority and Guardianship Act, 1956 has codified the law applicable to Hindus. It lays down that a child is a minor till the age of 18. The natural guardian for both boys and unmarried girls is first the father and after him the mother. The prior right of the mother is recognised only to custody in the case of children below five years. The Act, however, directs that in deciding the question of guardianship the courts must take the welfare of the child, as of `paramount consideration'.

389. This principle has always been taken into account by the judiciary when there is a conflict between the paternal right and the welfare of the child. In special circumstances the Court has held that the mother can be natural guardian even when the father was alive. (Jija Bai vs. Pathan Khan 1971 S.C.p.315)

390. Under Muslim Law the father is the sole guardian of his children. However, the mother has the prime right to custody of minor children. There is a difference between the Shia and Hanafi schools about the age at which the right of the mother to custody terminates. In the case of a minor son, the Shia school holds that the mother's right to `hizanat' (custody) is only during the period of weaning which is over when the child has completed the age of two. The Hanafi school, on the other hand, extends the period till the minor son has reached the age of seven. Both schools agree that only the mother has the right to the custody of a minor girl till she attains the age of puberty.

391. The Guardians and Wards Act 1890 governs all communities other than Hindu and Muslims. This Act lays down that the father's right to guardianship is primary and no other person can be appointed unless he is found to be unfit. However, the Act provides that the Court must bear in mind the welfare of a child.

Matrimonial Property

392. The Indian law does not lay down any restriction on women to choose their family name, profession and occupation. Various Courts have upheld the right of a women to choose a profession but the right of the husband to determining the location of the matrimonial home whereby in certain cases the husband sought a decree of restitution of conjugal rights or judicial separation where the wife was unable to join her husband owing to the exigencies of a service.

393. Under Indian law the concept of community of interests and unity possessions of the spouses, acquired and enjoyed during marriage, is not recognised.

394. Under Hindu law a court is empowered to make such provisions as it deems just and proper in respect of properties presented at or about the time of marriage to the husband and wife jointly. Similar provision is laid down under the Parisian Marriage and Divorce Act, 1936.

395. The only law, according substantive rights to the wife in the property of her husband, by express provisions of unity of possession and community of interests of the property of both the spouses during marriage is the Portuguese Civil Code, 1867 applicable generally to the inhabitants of the State of Goa and the Union Territories of Daman and Diu. It provides for two such types of contracts known as the ante-nuptial contracts to be executed by the spouses prior to their marriage by way of a public deed. These contracts are irrevocable and inalterable, after the solemnization of the marriage, and are without prejudice to the rights of inheritance and the general administration of the properties by the husband.

396. The first contract provides for the community of assets between the spouses of all the properties and liabilities present as well as future while the second provides for the simple community of assets and liabilities acquired or incurred during the course of marriage. These joint properties belong to both the spouses. Though general administration and management of these vests in the husband, he remains incapable to alienate it or otherwise dispose it of either by sale, gift or even by a testament without the consent of his wife. In the event of dissolution of marriage by death or divorce, the entire property is split in two halves, one half being the share of each spouse. Thus even where the wife is not earning a salary, she acquires an equal right in the property earned by her husband during the course of marriage.
